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International Court of Justice

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Official Transcript of the International Military Tribunal in the Matter of The United States of America, the French Republic, the United Kingdom of Great Britain and Northern Ireland, and the Union of Soviet Socialist Republics against Hermann Wilhelm Goering et al, Defendants, sitting at Nurnberg, Germany, on 6 June 1946, 1000-1700, Lord Justice Lawrence presiding.

The Defendant Jodl resumed the witness-stand and testified further as follows:

BY DR. NELTE:

Q Yesterday in answer to my last question about General Thomas you said that he constantly made reports on the war potential of enemy powers, to you and Field Marshal Keitel. Were these important reports always submitted to Hitler?

A These reports -- with graphic presentations and drawings -- were regularly submitted to the Fuehrer and often occasioned a violent dispute, because the Fuehrer considered their presentation of the enemy potential greatly exaggerated.

Q Did you and Field Marshal Keitel hold the point of view that the presentations of General Thomas were justified?

A Field Marshal Keitel and I both were of the opinion that in a very careful study of enemy armament achievements the statements of Thomas were doubtless on the whole completely accurate.

Q You heard the witness Gisevius say that Thomas was supposed to have been an enemy of the Command and of Hitler. In the course of years and in the reports made, did you ever realize this fact?

A I did not observe this. The only thing that I observed was that he objected to this exaggerated optimism of the Fuehrer. But perhaps in his basic attitude he took a pessimistic rather than an optimistic turn.

Q Was General Thomas dismissed from his position in the defense economy office?

A No, at the time he left his active work, General Thomas was under Minister Speer, but Mr. Speer wanted to work with him and requested from the Fuehrer that he should be dismissed from the armament office which Mr. Speer

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had taken over. And that was done on the order of the Fuehrer.

THE PRESIDENT: Dr. Nelte, how is the evidence about General Thomas relevant to the case of the Defendant in the witness-box or General Keitel? The evidence of Gisevius was relevant to the case of the Defendant Schacht. It seems to me -- and, I think, to the Tribunal -- that this is entirely irrelevant to the case of the Defendant you represent or the case of General Jodl. What does it matter to us whether General Thomas was acting in order to try to overthrow Hitler or not?

DR. NELTE: The questions which concerns the Defendant Keitel is whether Field Marshal Keitel submitted and presented the reports handed in by Thomas. The witness Gisevius said here, referring to Thomas as a source of information, that these reports of Thomas were kept from Hitler.

THE PRESIDENT: We went into that yesterday and now the Defendant Jodl has said that the reports of Thomas were submitted to the Fuehrer. But what I was pointing out to you was that the question whether Thomas was making his reports honestly or not is a matter which is entirely irrelevant.

DR. NELTE: Not as to the credibility of the source of information, Gisevius, in my opinion; but I will put this question aside. However, in this connection I must ask one more question with regard to the other source of information, Canaris.

Q Canaris was frequently a guest in the Fuehrer's headquarters and a guest of yours. What was the relationship of Field Marshal Keitel to his oldest office chief?

A The relationship of Field Marshal Keitel with Canaris from the first day to the last was an especially friendly and good one. Unfortunately he had too much confidence in him.

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Q May I ask what the relationship was after the 20th of July?

A I know that even after the 20th of July Field Marshal Keitel did not believe the charges against Canaris and that after the arrest of Canaris he supported his family with money.

Q What was the relationship of Canaris to Heydrich?

A I mentioned that once before. Canaris always tried t maintain an especially good relationship with Hitler and Heydrich so that they would not distrust him.

Q What can you say about the attitude of Field Marshal Keitel to Hitler's plan in October, 1939, the plan to attack in t West?

A I know that Field Marshal Keitel was apparently stron impressed by the attitude of the Commander in Chief of the Army and the General Staff of the Army and also raised a warning voic against this attack in the West. I know, although I did not experience it personally but somebody told me about it later, I kno that during this time he had the controversy with the Fuehrer whi led to a request for his resignation. This is what Schmundt told me; I did not witness it myself. Field Marshal Keitel did not te me about it personally.

Q In Document 447 PS which the prosecution submitted -- those are the so-called directive and special field instructions 21 -- under Roman numeral I-B is the famous paragraph according t which, in the operational area of the Army, the Reichsfuehrer is instructed to prepare a political administration with a special on behalf of the Fuehrer, resulting from the battle of two opposi political systems. I am sure you are acquainted with the docume

A Yes.

Q I will not hand it to you, and to make the matter br I will only ask, please tell the Court what Field Marshal Keitel felt about this order, how he acted in regard to it?

A The demand of the Fuehrer to intervene in the sover-eignty of the Army and its operational area with Himmler led to

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days of bitter discussion with the Fuehrer. The same argument had already taken place when Terboven was appointed in Norway. One need only read my entries in my Diary, PS 1780, to understand why the Fuehrer insisted on this point of view under all circumstances and why he forced the police, under Himmler, into the operational area. It was against all our rules. It was against all previous agreements with the police and with Himmler, but in the last analysis, the Fuehrer put this measure through in spite of resistance.

Q The prosecution asserted that in 1940 Field Marshal Keitel gave the order to kill General Weygand, the Chief of the General Staff of the French Army. This statement is based, essentially, on testimony of the witness, General Lahousen. I have a few brief questions to you on this matter. Was Field Marshal Keitel competent to order the killing of a general?

A No. Any death sentence had to be confirmed by the Fuehrer. No one is competent to order murder.

Q I ask this because Lahousen's testimony presented it as if this order had been given by Field Marshal Keitel to Admiral Canaris. If we assume that such an order was issued by Hitler, this would have been a highly political act considering the importance of Weygand?

A Yes, it would.

Q It would also have been a --

THE PRESIDENT: Dr. Nelte, this is all argument, and you are putting your questions in an entirely leading form. The real objection to it is that it is argumentative.

BY DR. NELTE:

Q If such an order had been given, could it have been unknown to you?

A I cannot imagine that Field Marshal Keitel, charged with the ordering of murder, would not have spoken about it to me.

Q What did you hear about the Weygand case at all?

A I did not hear a single word, ever, about this Weygand

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case. I heard only one thing, when Himmler reported to the Fuehr in my presence: "I have given Weygand a very nice villa in Baden. He can be satisfied with it." That is the only thing I ever hear discussed in the name of Weygand.

Q The witness Lahousen was heard in the case of General Giraud. Do you know anything of this case of Giraud which attrac ed much attention at the time?

A I heard a little more about the Giraud case. Shortly after the successful flight of Giraud, Field Marshal Keitel told me once in a conversation that he had had Giraud guarded by Canar so that he would not, as the Fuehrer always said, go to North Africa and direct the building up of the Commando Army against us or that he might not go to his family in the occupied territory where he could be arrested. That is what he told me. Several months later he said to me again: "I have now withdrawn this assignment to Canaris because the Fuehrer has given it to Himmler. If two agencies are concerned with it there will only be differen The third time I heard about the Giraud case was when Field Marsh Keitel told me that a deputy of Giraud -- I believe it was about the end of '43 or in the spring of '44 -- a deputy of Giraud approached the counter intelligence and said: "Giraud does not agr with De Gaulle in North Africa. He acquired information that he might not be permitted to return to France." I told Field Marsha Keitel then that the matter had to be looked into immediately, be cause that was extremely favorable for us politically. That is the only thing I ever heard about the Giraud case. Nothing else.

Q Day before yesterday you spoke about the talks in the Fuehrer's train in September, 1939, at which General Lahousen was present. In this connection you said: "I have no objections to Lahousen's statement." To avoid misunderstandings, I should like you to say whether you meant by that that all the testimony of Lahousen is credible and correct, referring to Giraud and Weygand or only the part regarding your presence in the Fuehrer's train?

A Of course, I meant only those statements of Lahousen

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which he made about me. As for the other statements which were made here, I have my own opinion, but that doesn't belong here.

Q Yesterday, in answer to a question of Dr. Stahmer, you spoke about the dispute on the occasion of the eight RAF flyers who escaped. In regard to this question, which the prosecution charged against Field Marshal Keitel, I should like to know the following: Did you hear that Field Marshal Keitel objected violently to the recaptured RAF flyers being turned over to Himmler, that is, to the Gestapo?

A When I stood at the curtain for those one or two minutes, I heard the Fuehrer say: "That is terrible. That is the tenth time that dozens of the captured officers have broken out. These officers are an enormous danger. You don't realize that." meaning Keitel -- "In view of the six million foreign people in prisoners and workers in Germany, they are the leaders who could organize an uprising. Due to this careless attitude of the Commanders, those flyers who have broken out are to be turned over to Himmler immediately." And then I heard Field Marshal Keitel answer: "My Fuehrer, part of them have already been brought back to the camp. They are prisoners of war. I cannot send them over." And the Fuehrer said: "Then they can stay there." That is what I heard with my own ears at that moment, until my telephone call called me away again.

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Q. Afterwards did you speak again with Field Marshal Keitel about this incident?

A. We drove back to Berchtesgaden together from the Berghof. Field Marshal Keitel was beside himself. On the way up he had told me that he would not report the escape of these fliers to the Fuehrer. He hoped that on the next day he would have them all back. He was furious at Himmler, who had immediately reported it to the Fuehrer. I told him that if the Fuehrer, in view of the total situation in Germany, saw such a great danger in the escape of foreign officers, then England should be so notified so that the order might be made for officers not to attempt to escape.

I must say openly that at this moment neither of us had any thought of these recaptured fliers being shot. They had done nothing except escape from a camp. German officers had also done that dozens of times. I imagined that he wanted to remove them from the disciplinary action of the army, which in his opinion would be too lenient, and wanted to have them work in a concentration camp for Himmler for a time as punishment. That is what I imagined.

Q. In any case, in your presence, in your hearing, Hitler's orders to Himmler to shoot these officers were not issued?

A. I know that with absolute certainty, for I know in what condition I was when I suddenly received the news that that they had been shot.

Q. Now I should like to ask a few brief concluding questions. The Tribunal asked the defendant Jodl on the witness stand whether he had submitted written applications asking for his resignation. You were present. What can you tell the Court about Keitel's efforts to resign from his position?

A. The first one that I mentioned a while ago was in the spring of 1940, probably, because of the Western campaign. Schmundt told me about it, but I did not see it myself.

The second case, about which I know exactly, was in 1941, in November, when there was an enormous controversy between the Fuehrer and Field Marshal Keitel.

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THE PRESIDENT: Dr. Nelte, we do not want the details. I mean, if he can tell us when Keitel attempted to resign --

THE WITNESS: This second case was in the fall of 1941; after the controversy Field Marshal Keitel wrote his request for his resignation. When I entered the room, his pistol lay before him on his desk, and I personally took it away from him.

THE PRESIDENT: Dr. Nelte, I have told you that the Tribunal does not want the details, and now we are being told about the details of the resignation, about the way in which it was made.

DR. NELTE: Can it be of no importance to the Court to know how serious the defendant Keitel was? As it is, he wanted to use his pistol.

THE PRESIDENT: He is going into details about some desk on which the document wasput, or something of that sort. He made his efforts to resign in writing. That is of importance.

BY DR. NELTE:

Q You can testify about this case that Field Marshal Keitel handed in his resignation in writing?

A I myself saw him writing it, and I read the introduction.

Q If things like the pistol incident occurred frequently, as you stat in your testimony, how did it happen that Keitel always remained?

A In the first place, because theFuehrer would not let him go under any circumstances. I believe that various attempts were made in this directi from other sources, too, but the Fuehrer did not let him go.

In the second place, of course, our mutual attitude was that we were engaged in a war for existence, in which an officer in thelast analysis, could not stay at home and knit stockings. It was the sense of duty that exerted itself and caused us to bear all the hardships.

Q You will understand that one must accuse the generals of loyalty for the sake of loyalty and that duty can only go to the point where it does not injure human dignity. Have you ever thought of that?

THE PRESIDENT: Surely that is not a question for Counsel to put. That is an argument, is it not? It is argument, not evidence. It is not the sort of question to put.

DR. NELTE: I have finished.

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BY DR. THOMA (Counsel for defendant Rosenberg):

Q Witness, is it true that Rosenberg in themiddle of January 1943 gave you and General Zeitzler a draft of a proclamation to the peoples of Eastern Europe?

A That is true. It was after the situation discussion. Rosenberg was present in the headquarters. He asked me and Zeitzler to step into the next room for a moment. He said he wanted to report to the Fuehrer a proclamation to the Eastern peoples, and that he would like to read it to us first. I recall that.

Q Do you still recall the contents?

A It was a very extensive concession in regard to the sovereignty of these Eastern states. It was an outspoken attempt through a policy of reconciliation to avoid unrest and antagonism to the German system.

Q Did you express to Rosenberg your pleasure at this proclamation.

A We said that that had always been our idea, but that we had doubts whether it was not already too late.

Q What was the success of this memorandum?

A As Rosenberg told me after the conference, the Fuehrer, as he often did, pigeonholed the matter; that is, he did not reject it, but he said, "Put that aside."

Q Did you have the impressions that Rosenberg's suggestions arose from concern about the danger caused by Koch's methods?

A Doubtlessly it was an attempt to counteract these methods used by Himmler and Koch.

DR. THOMA: I have no more questions.

BY DR. HAENSEL (Counsel for the SS):

Q Was the strategic commitment of the divisions of theWaffen SS under your supervision?

A The divisions of the Waffen SS, in regard to commitment, were generally treated exactly like thedivisions of the army.

Q How many Waffen SS divisions were there, according to your recollection? Please mention the number ofWehrmacht divisions so that one will have a means of comparison.

A At the beginning of the war, I believe we had three SS divisions.

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The number increased to the end of the war to an estimated 35 to 37 divisions, as against a number of army divisions which varied, but which one can give approximately as about 280, 290, 300.

Q In the set up of new divisions, what was the procedure? Who decided whether such a new division would be a Waffen SS division or a Wehrmacht division.

A As far as the Fuehrer had ordered the establishment of new divisions he said, after consulting Himmler, that so-and-so many divisions were to be set up, and so-and-so many Waffen SS divisions. He determined the number.

Q Was there a certain standard, or was that done arbitrarily?

A I had the impression that in setting up the SS divisions, the Fuehrer wanted to go as far as he could.

Q And when you say "could", what limitations do you see--in the methods, in the recruits, or where ?

A The limitation was in the fact that the soldiers of these Waffen SS divisions were to be volunteers, and the time came very soon when Himmler had to report, "I do not get replacements for thedivisions", and from this time on, the condition arose that when the men came for military duty, the cream of them were taken by the SS, and these people, even if they were the sons of Catholic peasants, were drafted into the SS. I myself received bitter letters from farmers' wives about this.

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Q In this drafting into the Waffen SS that you have just described, was the political viewpoint observed? Was a recruit first questioned politically before he was turned over to the Waffen SS, or was no consideration taken of this?

A No, the decisive thing was that the fellow looked good, that he promised to become a good soldier. That was the decisive thing.

Q You said yesterday that in the drafting of recruits, no consideration was given to whether the men belonged to the SA or not. Is the same thing true of membership in the General SS? Was no consideration given to whether the recruit belonged to the General SS, either in drafting, in training, or in promotion?

A Not to the same extent as in the case of the SA. I believe that the majority of the men in the General SS came to the Waffen SS and volunteered But I know that very many did not do that and were drafted in the normal way by the Army, so that they were treated in the Army just like any other German citizen.

Q If I understand you correctly then, there were many members of the General SS who served in the army on the one hand, and on the other hand there were many many who neither belonged to the Party nor the SS, but served in the Waffen SS.

A That is true, not from the very beginning of the war, but for the second half of the war, yes.

Q When in the second half of the war there were the greater number?

A Yes, the second half, after the big losses in the first Russian campaign of 1941.

Q How strong was the Waffen SS at the end of the war?

A About 480,000 men.

Q And the losses, that is the dead and captured, would be added to this number?

A Yes, they would be added.

Q And do you have any figures in mind about that?

A It is hard to estimate in regard to the SS.

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CROSS EXAMINATION

BY MR. ROBERTS, K.C.:

Q Witness, you told the Tribunal two days ago that you had soldiering in the blood, is that right?

A Yes, that is true.

Q And you said yesterday that you were here to represent the honor of the German soldier, is that right?

A Yes, I do that to a high degree.

Q And you put yourself forward as an honorable soldier.

A With full consciousness, yes.

Q And you put yourself forward as a truthful man.

A I represented myself as such a man, and I am.

Q Because of the things you say you have been made to do in the last six or seven years, do you think your honor has become at all soiled?

A My honor was not soiled for I guarded it personally.

Q Very good. You say your honor isn't soiled.

During the last six or seven years, when causing to be said the things which you say you had to circulate, has your truthfulness remained at the same high standard?

A (No response)

Q Can't you answer that question?

A I believe I am too dumb for that question.

Q Well then, if you are too dumb, I won't persist in it; I will go on. I will leave the question and I will go on.

In 1935, you were Lieutenant Colonel at the head of the Home Defense Department of the Wehrmacht, is that right?

A Absolutely right.

Q That is Department L, that is, Landesverteidigung, is that right?

A Yes.

Q And was Field Marshal von Blomberg your superior?

A Field Marshal von Blomberg was not my direct superior, but one of my superiors.

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Q Did you work a good deal with Field Marshal von Blomberg?

A On various occasions I reported to him personally, of course not nearly so much as the Chief of the Wehrmacht Office.

Q Did you attend staff talks with him?

A I did not attend conferences in a large circle with Blomberg. At least General Keitel and I and a few others were present.

Q And would they be called staff talks?

A No, staff talks took place in the Office of the Chief of the Wehrmacht.

Q Did you go to staff talks?

A Of course, since I belonged to the staff.

Q Very good; I thought that.

Now, will you please look at Document C-139, US-53. Just look at the signature, will you. That is signed by Blomberg, is it not?

A That is signed by Blomberg, yes.

Q Now, that is dealing with Operation Schulung. Do you remember what Operation Schulung was?

A (No response.)

Q That is the reoccupation of the Rhineland, isn't it?

A (No response.)

Q Can't you answer me?

A I can answer you as soon as I have read it.

THE PRESIDENT: Defendant, the question was whether you remember what Operation Schulung was. It isn't necessary to read the document in order to answer that question.

A According to my recollection -- I don't know whether it comes from studying the documents here in Nurnberg -- the term "Schulung" was preparations for the occupation of the Rhineland after evacuation --

Q Very good, I agree.

A -- of the Western territories.

Q Very good.

A I have something else to say.

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Q Now, wait a moment. That is then dealing with the reoccupation of the Rhineland; do you agree with that?

A No, that does not deal with the reoccupation of the Rhineland. That is absolutely false.

Q Now, just let us look at this document together and see what it says. First of all, it is dated the 2nd of May, 1935.

"For the operation" -- I am reading it to you if you will follow it, and might I make this point first: It is apparently so secret that it couldn't be entrusted to a stenographer, isn't it? The whole document is written in manuscript, handwriting, isn't it?

A (No response.)

Q You can answer that question surely. Can't you see whether it is in handwriting or not?

A It is in handwriting, yes.

Q Well, why not say so?

Now then, let's just look at the document. It is from the Reich Minister of Defense; that is von Blomberg, isn't it? It is the second copy, "By hand only". It is to the Chief of the Army High Command, Chief of the Navy High Command, and the Reich Minister for Air.

"For the operation suggested in the last staff talks" -- that is why I asked you whether you went to staff talks, you see -- "of the Armed Forces, I lay down the code name 'Schulung'."

Then, may I just refer briefly to the contents:

"This is a joint undertaking of the three services. The operation must be executed" -- and this is a phrase we have become familiar with later -- "by a surprise blow at lightning speed.

"Strictest secrecy is necessary....only peacetime strength...."

And No. 3, "Every improvement of our armaments will make possible a greater measure of preparedness."

Then, "I ask the Army: How many divisions ready for action?" Not one token battalion as you said yesterday.

"Reinforcement of the inadequate forces there" -- that is in the West --

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"by the East Prussian divisions which will be transported by rail and sea.... The High Command of the Navy to look after the safe transport of the East Prussian troops."

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Then what could that refer to, that secret instruction, so secret it had to be in manuscript, if it wasn't the reoccupation of the Rhineland?

A. If you will permit me to make a very brief explanation --

Q. Witness, answer my question first and then make an explanation after, if it is brief. The question is what could it refer to except the reoccupation of the Rhineland?

A. I am not a clairvoyant, I do not know the document, I have never had it; at this time I was not in the Wehrmacht office, it has entirely different signature; I was in the Operational Section of the Army. I neither saw nor ever heard of this paper. If you look at the date, the 2nd May '35, it is proven there. I entered the Wehrmacht office only the middle of June. Then, only on the basis of my general staff training can I give you some assumptions, but the Court does not want assumptions.

Q. Very good, if that is your answer. But you say that you who heard General Field Marshal von Blomberg's staff talk, you cannot help the Court at all as to what that secret operation order is about?

A. It was before my time. I was not with von Blomberg then.

Q. Very good. Now, will you look, please, at E.C. 405. Now -- let him see the German book, page 277.

MR. ROBERTS: My Lordship, that is page 26. -- Hasn't he a German book?

THE PRESIDENT: Defendant, you said, did you not, that you remember that the operation "Schulung" was the preparation for the operation of the Rhineland?

THE WITNESS: No, I said the contrary. I said the word "Schulung" I heard for the first time here in the court, and then I wondered what could that have been.

THE PRESIDENT: The Court will be able to judge as to what you said by the shorthand notes. You say, do you, that you did not say that "Schulung" meant the preparation for the occupation of the Rhineland? Is that right?

THE WITNESS: I said as General Staff officer of the Operation section at that time I had to know what military preparations were made.

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THE PRESIDENT: That is not what I asked you. What I want to know is what you said just now when you were asked if you remembered what "Operation Schulung" meant. What did you say? It may have come through wrongly in the translation. What did you say?

THE WITNESS: I said I believe I recall, I am not certain whether that didn't result from studying the documents here, this recollection -- or perhaps from earlier -- that the word "Schulung" means preparations concerning the evacuation of the western Rhenish territory in case of French sanctions. That was the only thing that we concerned ourselves with at that time; all the evacuation measures which I later mentioned in document EC-405.

BY MR. ROBERTS:

Q. Well, you remember the date of that last document, 2nd of May 1935. Now I refer to EC-405 which is in the big document book 7, page 261, and it is on page 277 of the German book. 277. This, Witness, is a meeting -- I want you to look, please, at pages 43 and 44 of the original which you have. Have you got 43 and 44?

A. 43 and 44, yes.

Q. Well, now, you see there it is a meeting of the working committee of the Reich Defense Council. It is dated the 26th of June 1935, and at letter "F" Colonel Jodl talks about participation in mobilization preparation, and the first three paragraphs deal with general mobilization and I don't want to read them but the fourth paragraph reads:

"Domilitarized zone requires special treatment. In his speech of 21st of May 1935 and other utterances the Fuehrer has stated that the stipulations of Versailles and Locarno regarding the demilitarized zone are being observed. To the "Aide memoire" of the French charge d'affaires of 17 June 1935 on recruiting offices in the demilitarized zone the German Reich Government has replied that neither civilian recruiting authorities nor other offices in the demilitarized zone have been entrusted with mobilization tasks such as the raising, equipping, and arming of any kind of formations for the event of war or in preparation therefor."

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Now, if von Blomberg's hand-written letter of the 2nd of May 1935 did refer to preparations for occupying the Rhineland by surprise, it was highly dishonest of the Fuehrer 19 days later on the 21st of May to say that the Locarno and Versailles treaties are being observed, wasn't it?

A. No, it wasn't dishonest. If it is true at all that the term "Schulung" --

THE PRESIDENT: I think that is a matter of comment.

MR. ROBERTS: I shall of course, My Lordship, let you make certain comments on the witness as I proceed. No doubt Your Lordship will realize that I am not endeavoring to depart from this particular ruling which is on this particular question.

THE PRESIDENT: I think that the Court stated that you ought not to make comments but ought to confine yourself to cross-examination about the facts.

MR. ROBERTS: Regarding Your Lordship's ruling, I have had a very extensive experience in cross-examination in many courts, but it is very difficult for a cross-examiner to confine himself entirely to the facts. But I shall do the very best I can.

BY MR. ROBERTS:

Q. I shall read on:

"Since political entanglements abroad must be avoided at present under all circumstances, only those preparatory measures that are urgently necessary may be carried out. The existence of such preparations or the intention of them must be kept in strictest secrecy, in the zone itself as well as in the rest of the Reich."

I want to refer to the last paragraph:

"Commitment to writing of directives for mobilization purposes is permissible only insofar as it is absolutely necessary to the smooth execution of the measures provided for the demilitarized zone, and without exception such material must be kept in safes. Weapons, equipment, insignia, field-gray uniforms and other items stored for mobilization purposes must be kept from sight."

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You were collecting weapons and uniforms in the demilitarized zone, were you?

A. They were weapons and items of equipment of the police, the gendarmerie; there were no troops there. Consequently, there were no weapons there for them.

Q. Did the police wear field-gray uniforms?

A. To my knowledge the police wore a gray-green uniform or a green uniform.

Q. What was the need of this great secrecy if this was only police equipment?

A. It was the equipment in addition for the reinforced

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border guards, which I have already said.

Q. My question, Witness, was what was the need for secrecy? What was the need for secrecy if you weren't breaking the treaty of Versailles? Can't you answer that?

A. The reasons for keeping all these measures secret I testified to in detail and I said that in all these preparations it was a question in case of an occupation of the western Rhenish territory by France, to set up a blockade along the line with the aid of the police, the gendarmerie and the border guards. That was the intention at that time. Only in this eventuality I have already testified under oath that I meant occupation of the Rhineland, only six days before hand.

Q. You have, and I am suggesting to you that your evidence was quite untrue on that point, and I am going to suggest it is quite untrue on many points. Now then, will you please go back to the first paragraph that I read. You say: To the "aide memoire" of the French Charge d'affaires the German Reich Government has replied that neither civilian recruiting authorities not other offices have been entrusted with mobilization tasks such as the raising, equipping and arming of any kind of formations for the event of war. Doesn't that subsequent paragraph about the weapons, equipment, insignia, and field gray uniforms show that the truth was not told to the French Charge d'affaires?

A. I only repeat that this was answered -- that answer was given to the French Charge d'affaires. I believe that that was essentialy true: No mobilization tasks, establishment, equipment and forming of formations for the event of war. There was no thought of war, no one mentioned it with one word.

Q. Well, now, may I just remind you -- and I think there are copies for the Tribunal too -- of Article 43 of the Versailles Treaty.

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Article 42 defines the area, the left bank of the Rhine and the right bank to the west of a line drawn 50 kilometers to the east. Article 43:

"In the area defined above the maintenance and the assembly of armed forces, either permanently or temporarily, and military maneuvers of any kind, as well as the upkeep of all permanent works for mobilization, are in the same way forbidden."

I Suggest to you the steps you were taking were breaking the Treaty of Versailles. Do you agree, or don't you?

A. No, I do not agree to that. They were taken in the event that the enemy did not hold the treaty and would attack us again as in the Ruhr.

Q. Very good. Now I propose to refer to a document which has been described as your speech, L.172, from time to time. -- Hand it to him, will you -- And I want to make it quite clear first as to what you say the document is, because you wouldn't say one thing one day and the opposite the next, would you, Witness? The document has your writing in places, has it not? I can refer to the pages if you like. If you look at page --

A. That is unnecessary. For many hand written notations and words crossed out by me --

Q. Thank you, Witness, for saving me that trouble then. And is that a speech, the notes of a speech, which you delivered at Munich to the Gauleiters in 1943?

A. This -- I have already clearly said that this was a waste-basket, not the speech that I held but parts of the first draft, a mass of matter in it of notes of reports of my staff which they gave me to work out this speech. I crossed out whole pages and sent the whole waste-basket back again and then I made my speech.

Q Well now, I wanted you to examine it, because you said quite differently, did you not, when you were interrogated by one American Officer on two sparate occasions? You said quite differently, did you not?

(No response)

Were you interrogayed on this matter on the 8th of October last year by Colonel Thomas Hinkel? Do you remember that? Perhaps you won't remember the date.

A We spoke about this matter a few times.

Q Yes,and you were sworn when you gave your answers to the interrogator?

A Yes.

Q Well now, to refresh your memory, may I read from a copy of the transcript of the shorthand notes of the interrogation?

"I show you a photostatic reproduction of a number of pages of a lecture, whic was purported to have been given by you on the 7th of November, 1943, and ask you if these pages represent the lecture that was delivered. For the record, that is identified as L-172."

Then you answered:

"Yes. A number of things are not contained therein, which I explained with the map.

"Question; You interpolated the remarks that do not appear in the written part; is that correct?

"Answer: Yes, many particulars I set forth just with the map at hand.

"Question; Is that your handwriting appearing on the cover page?

"Answer: No; it is not mine.

"But the remaining sheets you identify as the written version of a lecture at Munich?

"Answer: I cannot say whether it was actually my lecture as it was, because I see the signature of Putlag. It isn't the lecture itself. That is the material of the brochures which had been furnished to me."

Now, witness, just follow this, will you?

"Do you identify the first 29 pages as constituting the lecture that you delivered?

"Answer: (after examining document) Yes, that is my lecture."

Do you want to alter that sworn answer now? Do you?

A I have not read the transcript of the notes which were taken there. I don't

know the translation. I made several statements in that regard. When I observed in the second interrogation that, that was not actually my speech, I said--

Q I will read you the second one too, witness. I have that for you. This was on the 16th of November.

THE PRESIDENT: Defendant, had you finished what you wanted to say?

THE WITNESS: No, I had not finished.

THE PRESIDENT: Then finish what you want to say.

THE WITNESS: I wanted to say that before I had looked over the whole document, at the first moment, of course, I had the impression that that was my speech, or a copy of my speech. However, when I looked at it more carefully in the course of the interrogations, I noticed that it was only the material selected for this speech, and I said clearly: "It contains the first draft, or the outline, by me. The whole middle part is only material furnished by my staff, therefore, the whole thing is not at all the speech which I gave." That is what I told Colonel Hinkel

BY MR. ROBERTS:

Q Now let me read what I was going to read, which is the second interrogation. This is the 16th

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of November, 1945, four days before the trial:

"This document is identified for the record as L-172. I show you the photostatic reprodcution again, in order to refresh your recollection concerning it.

"As I remember your previous testimony, it was to the effect that the first part of the document is the speech that you wrote for delivery to that meeting. The second part consists of various thoughts on the basis of which this speech was prepared; is that right?

"Answer: One moment, please. This is not my real lecture. This is a conglomerate of the pieces of writings which are partly drafts of my own, that is, the introduction, but all the appendices are the basis for my lecture, furnished me by my staff.

"The photostats appended to the original lecture--it was a photographed copy; also, a number of maps which were drawn up were included.

"This is not my lecture as such, and the annotations made here, in this calligraphic manner, were not mine. I had made them in my own handwriting.

"I do not know the origin of this copy. Most likely it was furnished me by the OKW for the purpose of my giving this lecture. It is altogether a conglomerate of various pieces of writing, and it is usable only with limitations.

Now just listen to this,will you?

"However, as to the broad lines of it, this is what I have used as a lecture."

Then the next question was:

"I believe you stated before that the written speech that you had was not given as set forth in the text, because you interpolated various remarks in the course of the speech, particularly whenever you referred to one of the maps that you placed before the audience in order to follow the campaigns which you discussed. Isn't that correct?"

Now listen to this:

"What I have written down I have actually spoken and I stick to this text, written down by myself. But in regard to the momentary situation on the various fronts"--and that is part 3 and 4, where you will find a note "delivered extemporaneously"--"I had that so clearly in mind that I did not

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need to base my speech on any written statements. Also, I referred to the maps freely."

Then the last question on this point:

"Is it not true, however, that the document before you represents, in general, the speech that you gave to this meeting in Munich in November 1943?"

The answer is:

"Yes; much, without doubt is the same. All the appendices in regard to these various theaters of war and other appendices I had not used during my speech. I had returned them."

Do you agree with your answers to that interrogation?

A On the whole, I will confirm what I said. However, I don't know why we have to talk so long about it. The case is completely clear.

Q Well, please don't worry yourself. I know I am stopping you, but I apprehend that I am stopping you from saying something quite irrelevant, and in the interest of time I regard it as my duty to stop you. Please don't worry about why I should do something.

I want to know whether that document, roughly, represents what you said in the speech. It is quite a different thing than being in a waste paper basket.

A The introduction and the conclusion here in the first draft, and the basic thoughts, were, of course, in the speech in this form basically. However, the whole speech was worked out on the basis of this first draft; it was shortened, changed, parts were eliminated, mistakes were eliminated, and so on. Then came the main part of the speech. There is no proof, and I am not in a position to say whether I used one sentence of the material given here.

Q Very good; I will accept that.

A If you give me a copy of my actual speech I will recognize it.

Q That is all we can give you, witness, because that is all we have found.

THE PRESIDENT: I think we might as well adjourn now.

MR. ROBERTS: If your Lordship please.

(A recess was taken.)

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DR. EXNER: (Counsel for Defendant Jodl) Mr. President, I should like to call the attention of the High Tribunal to the following: when my client was interrogated at that time here, he was heard through an interpreter, since he does not understand English; and on the basis of this testimony of his, the minutes were established and set down in the English language. This record, was never submitted to the defendant; he had never seen it, and he did not sign these minutes.

At this time, these minutes, which were compiled in the English, are submitted to him in the German language through the interpreter, and in my opinion, it is quite impossible, under these circumstances, to tie the defendant down to certain words which are contained in the record. He will, of course, stand on what he said, and support it, but he cannot recognize that he said everything that is in that record.

THE PRESIDENT: That is true. We will keep these facts in mind. The Tribunal will keep these facts in mind, if you will draw them to their attention.

MR. ROBERTS: If it please the Tribunal, I am passing from that point. The witness, I think, said the document was the basis of the speech, and I accept that answe, and I pass to another point.

Would you please give the witness his diary, 1780 PS, German 113 -PS. It is page 133 in the large document book.

BY MR. ROBERTS:

Q Witness, I think you have seen this entry that on the 5th of November, 1937, which I am dealing with, "Hitler develops his ideas of future development intentions and conduct of policy"; page 133 of the large book.

THE PRESIDENT: When you say "large book", you mean "No 7"?

MR. ROBERTS: Yes, No. 7; I am sorry. I should have given it a number.

BY MR. ROBERTS:

Q This is the 5th of November, 1937: "Hitler develops his ideas of future development intentions and conduct of policy to the commanders-in-chief of the armed forces", etc.

There is a divergence in the recording of his ideas as made by the

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chief of armed forces' office and by the Commander-in-Chief of the air force.

"...the intention of L..." -- does that mean your department, Landesverteidigung, its intention to have these thoughts put on paper?

A (No response)

Q Please anser my question, witness.

A That means "Intention L"; that means the intention of the department of defense to have these thoughts put down on paper, and to have these ideas transmitted through the Wehrmacht branches.

Q Very good. Now, the meeting that you were talking about was what we have called the Hoszbach conference, was it not, which is 386-PS? The Tribunal are very familiar with it. You remember the conference, do you not? You have read it many times here?

A Yes. I was not present at this conference, but I do recall the things that were read here.

Q I know you were not present. But presumably, you, as head of the home defense department, were told of what was said at the conference?

A I have already testified as to that, that the report which I received was in no way sensational. The directives for the preparation at this time are available to the Court in writing; and everything which we prepared and worked with at the time is proved thereby. It is set down. We have the

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order of the 20th of May and of the 14th of June; all these are available.

THE PRESIDENT: Defendant, you were only asked whether you were told what happened at the conference. It was not necessary to make a long statement about that.

BY MR. ROBERTS:

Q You see, I am trying to put simple questions, and I am asking for simple answers. The last thing I want is to interrupt you.

Were you told that at that conference Hitler said that Germany's problem was a question of space?

A No, not one word to that effect.

Q Were you told that Hitler said that the German question could only be solved by force?

A No.

Q And were you told that Hitler said that German rearmament was practically complete?

A No.

Q And the last question I will ask you, were you told that Hitler said that the first aim in the event of war would be Austria and Czechoslovakia?

A The report about the more active preparations for the march against Czechoslovakia, I believe, was contained in these statements. But I can say only the details which I received from Field Marshal Keitel are not in my recollection at present. I do recall one thing, that it was no surprise or no sensation for me in any way -- only small corrections of the directive which had been given out up to that point.

Q Very good. Thank you. Now, then, you were not present at Obersalzburg when Keitel was there with Schuschnigg in the following February, were you?

A No, I was not present.

Q But Keitel later told you what had happened?

A He made a few brief remarks. He made a few brief remarks just in the manner of conversation, for after all, I was not concerned with this matter.

Q Did you make that entry in your diary; that is, the next entry to the one I was referring to, Page 133, Book 7, the same page, under the 11th of February, 1938: "In the evening, around the 12th of February, 'K' (Keitel) came

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with Reichenau and Sperrle at Obersalzburg. Schuschnigg and Schmidt are again being put under heaviest political and military pressure." Did Keitel tell you that?

A Yes. You only included the word "again." That word is not found in my diary. This entry I made personally, and I made it for this reason, since Keitel had told me at the luncheon period Reichenau and Sperrle had carried on warlike conversations to the effect that they had talked about the rearmament of Germany.

Q Very good. Now, in March -- I think this is common ground -- you signed or initialed one or two orders for the operation "Otto."

A Yes; but at that time, it was not called "Operation Otto"; rather "marching into Austria."

Q When Hitler heard that Schuschnigg was going to obtain the opinion of the people by plebiscite, he decided to invade at once, did he not?

A Yes.

Q Yes.

A I was told when he heard that there was to be a deceitful sampling of public opinion through the trick of a plebiscite, he said "I will certainly not tolerate this under any circumstances." This is what I was told.

Q He would not tolerate public opinion's being ascertained?

A No; he would not tolerate public opinion's being abused through this trick.

Q So the armed forces of Germany then marched into Austria?

A That is right; the Wehrmacht did march in.

Q And Austria, from that day, received all the benefits of National Socialism; is that right?

A That is a political question. It could have become the happiest country on earth.

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Q. I wasn't asking what it could have become, but what it received. It received the SS, the Gestapo, the concentration camps, suppression of opponents and the persecution of Jews, didn't it?

A. Those are questions with which I did not concern myself, and those questions you have to put to the competent authorities.

Q. Very good. You say the people appeared pleased to see you?

A. The people who were under my jurisdiction were very happy about this, that I can tell you.

Q. They had to appear to be, whether they were or not, didn't they?

A. No, they did not have to be. After I had been away for a long time, they certainly didn't have to write enthusiastic letters to me, letters which I received throughout the war, and from Austrians to whom my heart belonged.

Q. There was one man who wasn't please to see you, wasn't there?

A. I know no such person.

Q. Don't you?

A. No.

Q. What about Schuschnigg?

A. I never saw Schuchnigg. I do not know him and he doesn't know me.

Q. He wasn't pleased to see you come in, was he? What happened to him --

THE PRESIDENT: We know that, Mr. Roberts.

MR. ROBERTS: I quite realize that. I can't imagine my question is not admissable, but if you don't want me to put it -- it is one of a series of questions -- I won't.

Q. Schuschnigg was put in a concentration camp, wasn't he?

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A. I was told that the Fuehrer had decreed that he did not want him to become a martyr, but he could not liberate him and he had to put him in honorary (sic) (honorable custody. That was the impression I had during the entire war.

Q. Honorary?

A. Honorary, yes.

Q. Was he an honorary member of Dachau?

A. That I don't know. Those are not questions that you can put to me, for I was a soldier and not the commandant of a concentration camp.

Q. That is an honor that one would be glad to dispense with, isn't it?

A. I would be glad to dispense with much that took place during these years.

DR. EXNER: I am sorry but I have to object to questions like that. They are political and based on legal matter, matters which the Defendant cannot answer through his own knowledge. It is not a concern whether Schuschnigg was happy or not.

MR. ROBERTS: In my respectful submission, those questions are perfectly proper, the like of which have been put over and over again by Defense and Prosecution Counsel.

THE PRESIDENT: Mr. Roberts, the Tribunal thinks that the cross-examination is proper.

MR. ROBERTS: I am grateful to you, but I am passing from that point.

Q. The only question I ask in conclusion is that Schuschnigg was kept in prison or kept in confinement for several years without any charge and any trial. That is right, isn't it?

A. It may be, although I don't know.

Q. You know, did you not, when you signed those orders for the march into Austria, that Germany had given an assurance in May 1935, that she would respect the territorial integrity of

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Austria, and that on the 11th of July 1936, there had been entered into by your government and the Austrian government an agreement by Germany to recognize the full sovereignty of the Federal State of Austria? Did you know of these things?

A. At that time, no, I did not know that. In my position in the General Staff that matter did not concern me.

Q. I am passing from Austria with this one last question: Is there an entry in your diary -- it is a passage in L-172, the basis for the draft of your speech -- that after the Anschluss, Czechoslovakia was enclosed by pincers and was bound to fall a victim? That is page 290 of Book 7. Do you know that passage?

A. In the first draft which I made for my Gauleiter speech it said exactly what strategic improvements through the various actions of the Fuehrer had taken place, in that respect. But only these strategic --

Q. Again I don't want to stop you, but did you say something to this effect -- and I will give you the document if you like -- that Czechoslovakia was enclosed by pincers and was bound to fall a victim?

A. In the first draft I set down that through the Anschluss of Austria the strategic situation of Czechoslovakia had become so utterly hopeless that at any time it could fall a victim to a pincers attack. That is the strategic retrospect about facts, indisputable facts.

Q. Now I go very shortly to the case of Czechoslovakia. I only want to deal really with a couple of documents. I want to deal with Item 17, which will be found on page 29 of Book 7. And I have flagged that for you, Witness. Item 17.

A. Yes.

Q. You are familiar with that?

A. Yes, I know that.

Q. I don't propose to read it again, because it was read very recently; but you said yesterday that the problem was this:

2

6 June 1946-M-AOW-8-4-Martha.

First of all, you must have a surprise attack; if you were going to attack at all, you must have a surprise attack.

A. Yes, on the basis of the stipulations put by the Fuehrer.

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Q You must have a surprise attack first, and your troops would take four days to get into their battle position.

A Yes, indeed.

Q And therefore you must know the time, the incident which is going to be the cause of the attack; you must know the time when the incident is going to take place.

A Yes, I said that. You would either have to predetermine the time; otherwise the situation could not be met.

Q Therefore, you must create the incident yourself.

A I testified to that at length yesterday. Something had to be utilized and exploited that would help the situation along, but these are meditations in the General Staff and whether we captured these matters from the French they were considered irrelevant and insignificant.

Q It is set down at the end of the document on page 30 that either the Wehrmacht or the Counter-Intelligence Section would be charged with the manufacture of the incident.

A Yes, I said that in case the Abwehr (Counter-Intelligence) is charged, but these were all theoretical meditations of the General Staff as to applying that to a situation which I depicted at great length yesterday, and incidents like that occurred every day.

Q Then, if this had taken place, the world would have been told that because of that incident Germany had been compelled to go to war?

A I do not believe that the world would have been notified as to that. I believe the true reason would have been told the world, and the actual reason, which was made known through the press, that three and a half million Germans cannot be used as slaves by another people, and that was the question at issue.

Q If the world is going to be told the truth, what is the earthly good of manufacturing an incident?

A I testified as to that yesterday and I can only repeat what I said then at length: I knew the world history and the his-

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tory of war too well not to know that in every war things like that happen -- the question about the first shot, as to who fired the first shot. And the Czechoslovak State at that time had fired thousands of shots on German territory.

Q Now, I say, Witness, subject to correction, that you are not answering the question at all. The question was a very short one and you make a long speech about something quite different. The question is, if the truth was sufficient to justify your going to war, why should you want to manufacture an incident? If you can't answer it, say so.

A It isn't at all confirmed that, but I wanted to bring about or create an incident. I said, "in case." We never prepared an incident and that, to me, seems the decisive factor.

Q I won't argue any further with you. I have put my point and will leave it.

Now, on quite another point, I would like to refer to the last paragraph on page 29, the same document:

"Even a warning of the diplomatic representatives in Prague is impossible before the first air attack, although the consequence could be very grave in the event of their becoming victims of such an attack."

And then:

". . . deaths of representatives of friendly or confirmed neutral powers."

That means an air-raid before there has been any declaration of war or any warning to the civilian population, doesn't it?

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A That meant that I called the attention of the Fuehrer, through this document, to the fact that on the basis of his decree that result would come about.

Q Would you call that a terror attack?

A It can not be said under what condition such an action would take plade. These are all theoretical words for our General Staff, just theories. Just how and if thought was translated into practice, that no one can say, whether with justice or not.

Q I will show you later how these thoughts were carried into practice in the case of other countries. So we will leave that document altogether now and I will leave the case of Czechoslovakia. Now you were recalled to the OKW on the 23rd of August, 1939, from your artillery employment. We know that, don't we?

A Yes.

Q That was a great compliment to the opinion that the Fuehrer had of you, wasn't it?

A The Fuehrer wasnot responsible for my being called back and I do not know whetherhe knew about it at all. I rather doubt it.

Q Very good. On a very smallpoint, Witness, you told the Court yesterday or the day before that you never had a conference with the Fuehrer, I think, until September 1939, but your Diary, on the 10th of August, 1938 -- it is Page 136 of Book 7 -- your Diary said you attended a conference at the Berghof with the Army Chiefs and the Air Force groups. Didn't you meet the Fuehrer then?

A That which you asserted in your first sentence, I did not say. What I said was, word for word, verbatim, on the 3rd of September I was introduced to the Fuehrer by Field Marshal Keitel, and on this occasion, at any rate, I spoke the first word I ever addressed to him. That is what I testified to word for word yesterday. I had seen the Fuehrer a dozen times before then and I had listened to him when he had delivered his speeches

Q Yes, I accept that. It is quite likely that I was wrong. Now, with regard to the Polish campaign, did I hear you aright when you said that Warsaw was only bombed after leaflets had been dropped?

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A That applies to the beleaguring of the city of Warsaw at that time. The terror attack which was to hit the entire city through artillery, that took place after a forewarning which had come through twice.

Q It is a matter of history, is it not, that Warsaw was bombed, with many other Polish towns, in the early hours of the 1st of September, 1939, before any declaration of war? Isn't that a matter of history?

A As far asthis historical fact is concerned, Field Marshal Kesselring, who is very well informed, on this problem, testified to that in detail. He said that on this date the militarily important bases and objectives of Poland were attacked but not the population of Warsaw.

Q You are quite right.

MR. ROBERTS: If the Tribunal want the reference, Kesselring gave evidence as to the bombing of Warsaw, the English transcript, page 5731.

BY MR. ROBERTS:

Q Now, I suppose the result of the Polish campaign was naturally a source of satisfaction to all of you?

A The military development of the Polish campaign, seen from the military view, was quite satisfactory to us. Of course things happen in life that would give more satisfaction than a military action.

Q Well, now, I want you to look at a letter.

MR. ROBERTS: My Lord, this is a new exhibit, D, for Donald 885, and it is GB-484.

BY MR. ROBERTS:

Q That letter is in your handwriting, is it not? Is it in your writing?

A Yes.

Q Very good. Now, it is written to Police President, Dr. Karl Schwabe, Brunn (Moravia), Police Presidency, dated October 28, 1939. "My dear Police President: For your enthusiastic letter of September 22, I thank you heartily. I was quite particularly pleased about it. This wonderful campaign in Poland was a grand opening for this hard and decisive struggle and has brought about for us an unusually

H0150-0039

favorable point of departure politically as well as militarily. The most difficult part for the people as well as the Army is naturally still ahead." I propose to read it without comments and comment afterward. "But the Fuehrer and his associates are full of the greatest confidence; for the sanctimonious British will not succeed in throttling our economy, and militarily we are without worry. Decisive is the will of the people to stick it out, and this the many strong-willed and devoted men who are today at the head of the districts and in other responsible posts will take care of. This time we will show that we have the better nerves and the greater unity. That you, Police President, will contribute your weighty share to keeping the Czechs at it and to not letting them perk up, of this I am convinced." Then he is very pleased about the high recognition granted to the troops. "Tahnking you once more heartily for your words of appreciation which exceed by far my modest contribution in the shadow of the powerful personality of our Fuehrer. I am with Heil Hitler." Why did you call the British sanctimonious? Because they keep treaties and don't have concentration camps and don't persecute Jews? Is that why you thought we were sanctimonious, because we don't break treaties?

A No, that was not the reason. The reason was that the political situation generally was such that I was of that opinion.

Q Thank you. Now, you say: "Decisive is the will of the people to stick it out, and this the many strong-willed and devoted men who are today at the head of the districts and in other responsible posts will take care of." Who were these strong-willed and devoted men? Is that the SS and the Gestapo?

A No, these are the Gauleiters.

Q The Gauleiters?

A Yes.

Q Well, but I mean we have one or two Gauleiters here, Gauleiter Sauckel, for instance, in a large area like Thuringia, he couldn't do much by himself, could he? He would have to have some SS or Gestapo, wouldn't he?

A We are not concerned with that here. The fact was that these Gauleiters were concerned with the organization of the State and they carried their offices through in a noteworthy way. Despite these catastrophes the people were much better taken care of than in other years, that is in 1938,

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and that is to the credit of these people.

Q The people were better taken care of?

A Even in the last most terrible days, every man in Berlin received his regular rations. It was a model of organization.

Q It was a model of organization because no opposition to the government or the Party was allowed, was it?

A Yes. It made it easier on one hand and on the other hand brought about terrible and tremendous catastrophes about which I have just learned here.

Q Your letter speaks for itself, and I will go along. May I just ask you about this last sentence: "That you, Police President, will contribute your weighty share to keeping the Czechs at it and to not letting them per up --", what did you mean by that?

A Since this man was Police President at Bruenn, it was his task to see that quiet and order were maintained and not to tolerate a Czech uprising while we were at war. That is a matter of course and taken for granted. I did not say that he was to murder or Germanize the Czechs at all, but he had to keep order.

Q Very good. I pass from that now and I want to go to the various campaigns in the West. Now, with regard to Norway, of course you knew that your country had given its solemn word repeatedly to respect the integrity of Norway and Denmark, did you not?

A I said yesterday --

Q Please answer my question.

A Yes, I believe I recalled that at the time. I am quite sure.

Q We know there was an assurance at the beginning of the war to reassure all these Western neutrals, and there was another assurance on the 6th of October, and you say that in November Hitler decided to invade Denmark and Norway?

A Yes. I testified as to that at length yesterday.

Q I know you did. Please don't always say that. I have got to go over the same ground from the other angle, you see. "In the meantime", as your speech said --and I am quoting from Page 291 of Book 7, page 11 of your notes.

MR. ROBERTS: It is in the middle, my Lord, under Paragraph 8.

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Q "In the meantime, we were confronted by the problem of the occupation of Norway and Denmark. In the first place, there was danger that England would seize Scandinavia and thereby besides effecting a strategic encirclement from the North would stop the import of iron and nickel which was of such importance to us for war purposes. Secondly, it was with the realization of our own maritime necessities -- 'Notwendigkeiten'" -- that is the word, isn't it -- 'Notwendigkeiten' --

MR. ROBERTS: My Lord, that ought to be "necessary" and not "imperative. "Erforderten" is the German word.

BY MR. ROBERTS:

Q "-- which made it necessary for us to secure free access to the Atlantic by a number of air and naval export points." You wanted air bases and naval bases, didn't you?

H0150 - 0042

A. Militarily they were tremendously important to us. There is no doubt about that, but the stipulation to take them, those were the reports which we had.

Q. What I suggest to you, you see, is this: That in this, like the case of the other three low countries, in this case, you simply made an excuse. You thought England might do something, although she had not done it for months, and you breached Norway's neutrality at your own chosen time. Is that right?

A. In order to answer that question Yes or No, one would have to undertake a very thorough study of all the historical documents on both our own and the enemy side. Before that has been done, only a subjective opinion is here. I have mine, and you have another.

Q. Yes. I point out to you that it was Germany on every occasion who violated the neutrality. The Allies did not.

A. In the case of Norway, the English did that for the first time in the case of the "Altmark" by the shooting of German ships in Norwegian territorial waters, and that has been determined and proved indisputably. There is no doubt about that at all.

Q. The "Altmark", as you very well know, Witness, was not an occupation at all; it was merely the act of the British Navy in taking British prisoners from a German prison ship, and I imagine that your navy would have done the same if they had had the chance. What is the good of talking about the "Altmark". It was not an occupation at all.

A. But it was a violation of international law, as far as Norwegian sovereignty was concerned. You could only request that Norway do the same thing, but you personally had no business to carry through a combative action in these Norwegian waters.

Q. Why should you break your word to Norway and cause untold suffering and misery to the inhabitants of that country because the British went into the territorial waters and took out a few hundred prisoners? What is the logic of it? Why should the Norwegians suffer for it.

A. You are just quoting one small example, but there are hundreds of them.

H0150-0043

Q. It is the example you quoted, witness, not I. I did not quote it.

A. I can only say that we were under the certain subjective impression and that in the last second we carried through an enterprise, to which British troops were already committed, and if you can prove to me that that is not true, I shall be very grateful to you.

Q. I am going to call your attention to the only outside evidence that you have produced about that, because it was read rather hurriedly yesterday -- quite rightly.

MR. ROBERTS: My Lord, it is in Jodl's document book Two, and it is page 178. Well, My Lord, it begins at page 174. My Lord, that is on the left hand top corner. Page 174 says that Albrecht Soltmann was an expert specialist, that he evaluated the files from the British landing brigade, and that he examined diaries. That is on the second page, and on the bottom of page 175:

"The documents and statements by prisoners showed that a short time before our invasion of Norway the British invasion troops had been embarked on destroyers. On the following day they were again disembarked and remained in the vicinity of the port of embarkation. They were then re-embarked after the German invasion of Norway for the second time and transported to Norway. What intention the English pursued in the embarkation of their troops before our landings could not be determined from the documents and from the statements furnished by prisoners. Whether they intended to occupy Norway before our invasion could at that time only be conjectured, because the prisoners did not make any exact statements in this respect. The conjectures are based on the special equipment of these British troops. Insofar as I could evaluate the documents and statements furnished by prisoners they did not contain proof of the English plans with regard to Norway."

And this is the next question:

"Have not the results of all documents and statements furnished by prisoners been to the effect that in the invasion of Norway we arrived only just ahead of the English?

"Answer: Yes, the information in the documents and the

H0150 - 0044

statements furnished by prisoners could be interpreted to mean that in our invasion we were just ahead of the "nglish. However, whether this was considered unmistakable evidence escapes my knowledge."

Then they deal with French documents captured in a railway train. The witness does not know anything about them.

BY MR ROBERTS:

Q That is pretty porr evidence, isn't it, on which Norway was to be invaded, contrary to all the treaties and all the assurances?

A I quite agree with you on that; you are quite correct, but that is only found in this reason---that Soltmann was not an expert in this field. He was not even an officer of the General Staff. We have further and much more persuasive pieces of evidence which were before me on my desk; namely, all the directives carried by the English landing brigade, and our assumptions were absolutely confirmed by fact through these records as follows--

Q An invasion without warning or any declaration of war.

A That is a political question.

Q You have told the Court yesterday what a stickler you were about International law, how keen you were to see that International War was observed. You knew that was against international law, didn't you?

A These matters were not in our regulations, but only the agreement which applied to the Wehrmacht. The concept of an aggressive war or not, was not found in any regulation of the Geneva Convention or the Hague Landwarfare Regulations. Those were the things that we went by.

Q If an hinorable German gives his word, he keeps it, does he not? He does not break his word without saying that he is going to depart from it, does he, an honorable German?

A That seems to be a practice which is general and observed all over the world when human beings work together. but not in the sphere of politics.

Q If that is your code of honor, why is it not grossly dishonorable for Germany to break her word over and over again? Or would you rather not answer that question?

A No, you would have to put that question to the people who were responsible for the formulation of German politics.

H0150 - 0045

Q Well, I will leave that, Now I want to come to the invasion of Holland, Belgium, and the Netherlands. I beg you pardon, the Netherlands, Belgium and Luxembourg.

You have no doubt at all, have you, on the documents that in the event of war in the West, it was always Hitler's intention to violate the neutrality of those three small countries?

A From the beginning, in his orders for the attacks in the West, he had the intention to go through Belgium, but he had reservations with regard to Holland for a long time. I believe these reservations were rescinded in the middle of November. Regarding Holland his intentions were not determined. Regarding Belgium his intentions were known comparatively early. That is, about the middle or the early part of October.

Q You could not, of course--I mean Germany naturally wanted to wage an offensive war and an offensive war in somebody else's country. That is the ambition, naturally, isn't it?

H0150 - 0046

A The German objective in this war was to win.

Q You couldn't attack in the West unless you attacked through Belgium, could you?

A In any event, any other attack had been made tremendously difficult and was questionable. I have already said that.

Q Yes. That is why, of course, France built the Maginot Line, so that you couldn't attack her frontally.

Well now, if yousecured the coast of Belgium and Holland, you secured air bases from which you could annihilate England or Great Britain. That is what you hoped, wasn't it?

A No doubt the strategic position of Germany would have been much improved through our having the coast, that is true.

Q Yes. May I just remind you of a few documents which the Tribunal know already. I don't intend to read them, but the first document in order of date is 375-PS, Us-84, dated 25 August 1938. It is during the time of Fall Gruen. In the last paragraph of the document, page 9, I think, it says:

"Belgium and the Netherlands in German hands would represent an extraordinary advantage in the air war against Great Britain."

And the Army is asked to say how long it would take.

That was at the time of the Czechoslovakian crisis, wasn't it?

A Yes, but this document, I believe, has been characterized as a ridiculous piece; it was just the work of a very small lieutenant.

Q It seems to have been a very good judge, at any rate, judging from what happened afterwards.

Well now, the next document -- I know you were in Austria but no doubt you heard about it from Keitel -- was the Chancellery meeting the 23rd of May 1939. That is L-79, Book No. 7, page 275. Do you remember there that the Fuehrer said:

"The Dutch and Belgian air bases are to be occupied. Declarations of neutrality must be ignored. Considerations of right and wrong or treaties do not matter. The Army will have to hold positions essential to the Navy and the Air Force. If Belgium and The Netherlands are successfully occupied and held, if France is also defeated, fundamental conditions for a successful war against England will have been secured. Daily attacks by the German Air

H0150 - 0047

Force will cut her life line."

There wasn't any doubt as to the policy of the Fuehrer in May 1939, was there?

A In the course of this proceeding here I heard about this conference and the things which purportedly were discussed at that time, and I am not able to judge whether it is correct for I did not hear it. I didn't hear about it later; I didn't hear about it from Keitel.

Q Very good. Did you hear about the speech made by the Fuehrer on the 22nd of August 1939?

MR. ROBERTS: I don't know if the Court have got this. It is not in your document book. It is No. 798-PS, in Document Book No. 4. There are some loose copies, my Lord.

BY MR. ROBERTS:

Q "Holland, Belgium, and Scandinavia will defend their neutrality by all available means. England and France will not violate their neutrality."

You always thought Hitler was a good prophet, didn't you? You thought Hitler was a good judge.

A Very often, yes.

Q And he was a good judge that England and France would keep their word whereas Germany would break hers.

Now, then, that was August. I want to --

A (Interposing) I don't know that either.

Q Very good. Now, I want to come to the document which you put in yesterday.

THE PRESIDENT: Well, wait a minute. Defendant, what do you mean by saying you don't know that? Do you mean that you didn't know the document? You said, "I don't know that."

THE WITNESS: I do not know what the Fuehrer actually said in his conference on the 22nd of August. I did not even know that a discussion had taken place, for I was in Vienna at the time. I only know what supposedly is set down in documents which have been submitted.

H0150 - 0048

BY MR. ROBERTS:

Q Now I want to put the whole document L-52. Dr. Exner , quite properly of course, read some extracts, but I want to read some more.

Now, L-52 was Hitler's memorandum on the 9th of October 1939. May I point out that the 9th of October 1939 was three days after his renewed assurances to the Western neutrals.

I want to refer to certainpassages. You have read some; I want to refer to others.

MR. ROBERTS: My Lord, what I am now reading from, starting withthe outside page is the 5th page. It is page 27 of the original, which appears in the bottom righthand corner.

BY MR. ROBERTS:

Q I read the paragraph on page 25 of your original, Witness.

"Germany's military means of waging a longthier war are, as far as our main enemy is concerned, theAir Force and the U-boat arm.

"The U-boat can, even today, if ruthlessly employed, be an extraordinary threat to England. The weaknesses of German U-boat warfare lie in the great distances to the scenes of action, in the extraordinary danger attached to these journeys and in the continuous threat to their home bases. That England has not, for the moment, laid the great minefield, as in WorldWar I, between Norway and the Shetland Isles, is possibly connected - - provided the will to wage war exists at all -- with a shortage of necessary barrage materials. But, if the war lasts long, an increasing difficulty to our U-boats must be reckoned with in the use of these only remaining inward and outward routes. The creation of U-boat strongpoints outside these constricted home bases would lead to an enormous increase in the striking power of this arm."

Is that a covert reference to the Norwegian bases, do you think, giving access to the Atlantic?

A I do not believe so. I believe it is a rather general and correct naval strategic consideration and can apply to a base at Murmansk which we already had at that time, or it might refer to the base at Iran or Spain, but it is not a special reference to

H0150-0049

Norway, for under oath I have declared that the Fuehrer did not consider Norway, not with the slightest thought.

Q. Very good.

A. Not until we had the notice and report from Quisling.

Q. I have heard your answer. Now, may I go on reading:

"The German Air Force, the GAF, cannot succeed in efficient operations against the industrial center of England and her south and southwest ports until it is no longer compelled to operate offensively from our present small North Sea coast by extremely devious routes involving long flights. If the Dutch-Belgian area were to fall into the hands of the English and French, then the enemy air forces would be able to strike at the industrial heart of Germany and would need to cover barely a sixth of the distance required by the German bomber to reach really important targets. If we were in possession of Holland, Belgium, or even the Straits of Dover as jumping off bases for German aircraft, then, without a doubt, Great Britain could be struck a mortal blow, even if the strongest reprisals were attempted.

"Such a shortening of air routes would be all the more important to Germany because of our difficulties in fuel supply. Every 1000 kilograms of fuel saved is not only an asset to our national economy, but means that 1000 kilograms more of explosive can be carried in the aircraft; that is, 1000 kilograms of fuel would become 1000 kilograms of bombs. This also leads to economy in aircraft, in mechanical wear and tear, and above all, in valuable airmen's lives".

Then I ask you to turn to your page 41.

MR. ROBERTS: My Lord, it is two pages on, and your Lordship will see "41" nearly at the top of the page, with an asterisk, and the heading "The German Attack". Has your Lordship got it?

THE PRESIDENT: Yes.

BY MR. ROBERTS:

Q. "The German Attack. The German attack is to be mounted with the object of destroying the French army, but in any case it must create a favorable initial situation which is a pre-

H0150 - 0050

requisite for a successful continuation of the war. In these circumstances, the only possible area of attack is the sector between Luxembourg in the south and Nijmegan in the north, excluding Liege. The object is to attempt to penetrate Luxembourg Belgium, and Holland in the shortest possible time, and to engage and defeat the opposing Belgian-French-English forces".

I suppose I can't ask you to say what your opinion is of the honesty of giving these western neutrals a guarantee on the 6th of October and saying that is the only possible means of attack in that memorandum of the 9th. I suppose that is a question of politics, is it?

A. It is a political question, but the stipulations were made only on the condition of the strictest neutrality. But the neutrality was not kept, for British fliers daily and by night patroled and flew over this area.

Q. Why should the wretched people of The Netherlands and Belgium be destroyed and mutilated because British airmen fly over their territory -- destroyed and mutilated by the German Army? What is the logic of your remark at all?

MR. ROBERTS: My Lord, there is one more passage from that document I should like to read. If your Lordship is thinking of adjourning, perhaps I might read it, and then I will have finished with the document. My Lord, it is the next page, and it is toward the end of the page. It is against the number "P-52". It is just above "Time of Attack".

BY MR. ROBERTS:

Q. It is on your page 52, Witness, at the very beginning, or just at the end of page 51:

"All those in charge of these impending operations must keep firmly fixed in their minds the fact that the destruction of the Anglo-French forces is the main objective, the attainment of which will enable suitable conditions to obtain for later and successful employment of the German Air Force. The brutal employment of the German Air Force against the heart of

of the British will to resist can and will follow at the given moment" .

Did that mean terror attacks against the civilian population?

A. You are asking me continuously about a document which from the first to the last word was written by the Fuehrer, as I have already told you. You are citing a rather interesting picture of the Fuehrer as a strategist and as a military leader, and it is of interest to the world, but I cannot see how this concerns me.

Q. But may I point out, Witness, that your own counsel produced it and you relied on certain parts of it. That is how it concerns you; you relied on it.

A. Yes.

THE PRESIDENT: We will adjourn now.

(A recess was taken until 1400 hours).

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H0150 - 0052

546 file

AFTERNOON SESSION

(The hearing reconvened at 1400 hours, 6 June 1946)

ALFRED JODL -- Resumed

CROSS-EXAMINATION -- Continued

BY MR. ROBERTS:

Q Witness, I only have two other questions on the acts of aggression against the Low Countries. Will you look at your diary 1809 P.S. for the 8 May 1940. It is page 141 in document book 7 and it is page 115 in the Germ book. The actual quotation is page 143 in the document book 7 at the top o. the page:

"May 8. Alarming news from Holland and cancelling of furloughs, evacuations, road blocks part of mobilization measures."

Were you afraid that the Dutch might actually take some steps to defend themselves against your invasion? Was it alarming because you thought the Dutch might have suspected you were going to break your treaties and assurances?

A I don't understand the question.

Q I will go on. "According to the reports of the Intelligence Service the British have asked for permit to march in but Dutch refused. According to reports measures of the Dutch partly directed against the coast and partly against us. It is not possible to obtain a clear picture whether the Dutch don't work hand in hand with the English or whether they really wanted to defend their neutrality against the first attacker."

It is clear from that, isn't it, that you had no information at all that Dutch neutrality was going to be broken?

A That is not clear from the entry. The whole thing is only a brief argument on reports which we received on this day or on the previous day from Canaris. If that were to be followed up completely these latest reports would have to be at hand. This entry refers to latest reports. Many thousand proofs once are not included.

Q But on the 10th of May without any declaration of war these three countries, small countries, were invaded with all of the armed might of

H0150 - 0053

Germany, were they not?

A The attack began on the 10th of May on the whole front.

Q What had these countries done at all to deserve the horrors of invasion and the miseries of German occupation?

A I can only say that is again a historical question. I have alread said according to my point of view England and France in fact forced them to give up their strictly neutral attitude. That was my impression.

Q Wasn't it because they stood in the way of your air bases and U-boat bases?

A They were not only in the way but by permitting actions, non-neutra actions, they helped England in the war against us. That was my subjective impression.

Q Now, with the permission of the Tribunal, there was one question I should have asked on Norway; only one; and if I might go back to that, I want to ask you about your diary entry, 1809 P.S., page 145 in Document Book 7. I haven't got a reference to the German but it is about at that place. I will read it slowly:

"March 13th: Fuehrer does not yet give order for "Weser". He is still looking for an excuse" -- "justification", to use your word. And the next day, 14 March: Fuehrer has not yet decided what reason to give for "Weser" exercises.

If you had a good reason for breaching Norwegian neutrality why should t Fuehrer be unable to find one?

H0150 - 0054

A Because in this operation the Fuehrer considered it absolutely essential to have some documentary proof. So far, ther had only been very strong indications which approached proof, but there was no documentary proof.

Q Very good. I leave that part of the case, and I now go to Yogoslavia, and I have only two or three questions on Yugoslavia.

I want you to look at document 1746 PS, page 127 in docume book 7; page 112 in the German book.

Before we deal with the document, witness, Yogoslavia had also received assurances from the Fuehrer. That is so, is it not or don't you know?

A Yes. Not only Yogoslavia, from Hitler, but also we from the Yogoslavian Government, which had concluded a treaty wit us on the previous day.

Q You will find the document I am going to refer to. I has a piece of paper headed with the German word for "discussion" "Besprechung". Have you found it? It should be a piece of paper with the word "Besprechung".

A "Discussion on situation in Yugoslavia"; yes.

Q That is right.

A Yes.

Q Dated 27 March 1941?

A Yes.

Q Now turn to page 2, I think it is:

"The Fuehrer is determined, without waiting for loyalty declarations from the new government, to make all preparations to destroy Yugoslavia militarily and as a national unit. No diplomatic inquiries will be made; no ultimata presented. Assurances which cannot be trusted will be taken note of. The attack will start as soon as the means and the troops suitable are ready. It is important that action will be taken as fast as possible."

Now I go to page 3, witness:

"Politically it is especially important that the new blow

H0150-0055

against Yugoslavia is carried out with unmerciful harshness, and military destruction is done in a lightning-like undertaking."

Now I go to page 5, witness.

"The main task of the Air Force is to start as early as possible with the destruction of the Yugoslavian Air Force ground installation, and to destroy the capital, Belgrade, in attacks by air."

The Fuehrer was not going to give the civilian population even half an hour's warning, was he?

A I don't know what preparations for warning the Yugoslavian Government had taken, but at the moment of the Putsch it immediately made military preparations and deployed along our border.

Q May I ask you this? Do you approve, as an honorable soldier, of attacking a city crowded with civilians without a declaration of war or even half an hour's warning?

A I am not of that opinion. I have already said that I, personally, and an hour later the Reich Foreign Minister, suggested an ultimatum.

Q When you lost your air superiority and people were able to hit back, you Germans made a great deal of fuss then about terror attacks, didn't you?

A This city was, at the same time, the center of a "Putsch" government, which had annulled a treaty concluded with Germany. From that moment on it made preparations for war with Germany along the whole front.

Q Well, I am going to leave the incident. Do you remember how you refer to it in the notes for your lecture? It appears on page 292 of Book 7, and at 304 of the German. You refer to it as "an interlude". Do you remember? The German word is

H0150 - 0056

"Zwischenspiel", "interlude". Is that your idea of an interlude?

A To be juridically exact, you mean the first draft of my speech and not my speech; you do not know that. However, in this first draft, I cannot recall mentioning an interlude.

Q How many civilians, how many thousands, do you think were killed in the first movement of that interlude in the bombing of Belgrade without warning?

A I cannot say, but surely only a tenth of the number that was killed in Dresden, for example, when the war had already been won.

Q Now I come to the alleged aggression against the Union of Soviet Socialist Republics. Hitler deciced to attack the Soviet Republic in July of 1940, did he not?

A In July of 1940 he had not yet reached that decision.

Q But at any rate -- I don't want to waste time -- we know that on the 22nd of June, 1941, Germany invaded the Soviet Union contrary to her non-aggression pact. That is history, is it not?

A Yes. The attack on the 22nd of June, 1941, is an historical fact, because the politicians were of the opinion that the Soviet Union had not held to the pact.

Q Now, witness, I am going to pass from this part of the case altogether. I want to put one last question to you, however. Don't you think that this record of broken pledges will dishonor the name of Germany for centuries to come?

A That could be, if historical research, after exact investigation of Russian documents, delivers clear proof that Russia did not have the intention of strangling us politically or of attacking us. In that case, yes; otherwise, no.

Q I now want to come to quite a different part of the case under counts 3 and counts 4. The documents have been put to you so often, that I don't want to put them again.

You remember the "Barbarossa" order. That is C-50, in document book 7, page 187; 146 of the German book. That was issued by your office, was it not, Wehrmacht Fuehrungsstab, L?

A It was worked on in the Quartermaster Section of the Wehrmacht Fuehrungsstab.

H0150 - 0057

Q Well now, do you agree that that was a shameful order to have to issue?

A I agree. I have already said that there was no soldier who would not have opposed this order; and they all did so.

Q We know that on the 17th of July — and this is Document C-51, which is in document book 7, at page 190, page 150 in the German — we know that from the same office, the WFS, L, there was issued an order that the previous order was to be destroyed, but its validity was not be effected; that is, destroyed below corps level. What was the object of the destruction of that order?

H0150 - 0058

A Unfortunately, I cannot tell you: I do not have this order. I do not believe that I ever saw it.

Q Perhaps you would look at it, witness, C-51, Page 190, Book 7; 150, German Book. Now, that comes from W.F.ST. -- that is, Wehrmacht Fuehrungs Stab -- Department "L"; and then "Q" for "Quartermaster", in brackets. That is your office, is it not?

A That is a part of the Wehrmacht Fuehrungs Stab.

Q That is your office?

A Yes. But I do not know this order; and aside from here in Nuernberg I never saw it before. I do not know what it is about, what order is being rescinded. I have already said that these questions of court-martial were under the jurisdiction of Field Marshal Keitel; and my quartermaster section issues the order without my having any part in it. I do not know.

Q And you cannot suggest any reason why it had to be destroyed?

A No; I cannot give you any information about that.

MR. ROBERTS: Now, then, I want C-52, which has not yet been put in. Your Lordships will find it on Page 191 of Book 8. I offer it as GB 485, and it is in the German book on Page 153.

BY MR. ROBERTS:

Q Now, this is another Keitel order. It comes from "Wehrmacht Fuehrungs Stab", "L"; then, in brackets, "1 Op". Is that your department?

A That is the section with which I worked on all operational questions.

Q Do you remember that order?

A Yes, I remember this order.

Q I think you took part in drafting it; did you not?

A Certainly, because it is an operational order.

Q Yes. Will you look at Paragraphs 6 and 7? Paragraph 6 says:

"In view of the vast size of the occupied areas in the East, the forces available for establishing security in these areas will be sufficient only if all resistance is punished not by legal prosecution of the guilty, but by the spreading of such terror by the occupying forces as is alone appropriate to eradicate every inclination to resist, amongst the population.

H0150 - 0059

"The respective Commanders, with the troops available to them are to be held responsible for maintaining peace within their areas. The Commanders must find the means of keeping order within the regions where security is their responsibility, not by demanding more security forces, but by applying suitable draconian measures."

That is a terrible order, isn't it?

A No, it is not terrible. It is established by international law that the inhabitants of an occupied territory must follow the orders and regulation of the occupying power, and an uprising of resistance against the army who occupies this country is forbidden. It is partisan warfare, and there are no means set by international law for combatting partisans. The principle is "an eye for an eye and a tooth for a tooth." And this is not a German principle.

Q Is it not the "tooth" and the "eye" of the innocent?

A It is not a question ofinnocence. It is said expressly, "to eradicate every inclination to resist". It concerns only those who resist, the partisans.

Q I will not argue about it, witness. I gather you approve of the order.

A I approve it as a justified measure under international law against a resistance movement of great extent and of unscrupulous methods, which is against international law. We had approved of this.

Q Very well. Now I want to come to something quite different. I want to come to the "Commando Order", and I desire to put in two documents which have not yet been put in, to trace the history of the making of this order, because I suggest it was drawn up in your office under your jurisdiction.

MR. ROBERTS: Will you give the witness, please, 1266-PS, whichI offer, My Lord, as GB 486.

BY MR. ROBERTS:

Q Now, this is the first document, dated the 8th of October. That is a memorandum from the "Q" Branch of the Wehrmacht Fuehrungs Stab; that is right, is it not?

A Yes.

Q And it was in this order that you mention tieing up all Englishmen you seize in Dieppe.

H0150 - 0060

MR. ROBERTS: First it deals with the "tieing up order", My Lord, which is not important. Secondly, it has an announcement of the 7th of October, 1942, which reads as follows:

"All terror and sabotage detachments of the British and their accomplices who do not behave like soldiers but like bandits will infuture be treated as such by the German troops and will be ruthlessly slain in battle wherever they make their appearance."

BY MR. ROBERTS:

Q Of course, that order does not mean very much, does it? It assumes that the enemy are not behaving like soldiers, but like bandits, and says they may be slain in battle.

But then the second paragraph says: "The Deputy Chief of the Operational Staff . . ." -- that was Warlimont, was it not, witness?

H0150-0061

A That was Warlimont, yes.

Q He says, "the following task" is given to Department "C

"1) Drafting in order form."

Look at Number 2:

"Like the Barbarossa order issued at the time this order must also be drawn up -- in conjunction with the Wehrmacht Legal Department and Counter-Intelligence -- with great thought and care. Distribution down to Armies only, from there forward only orally. To be destroyed after having been taken cognizance of".

What was the nature of that order that was drawn up with so much care of your staff and the legal department and Counter Intelligence?

A I believe that was Document 50, which you mentioned. The "Barbarossa Order" is not a clear term.

Q "The following must be borne in mind regarding the contents of the order.

"In cases where captives are temporarily taken into custody for our own purposes, the persons concerned are to be hand over to the SD, by Counter-Intelligence, after a thorough examination in which the SD is also to take part.

"Not to be lodged in prisoner-of-war camps under any circumstances."

"This order is to take effect retrospectively with regard to the people from Norway".

The people from Norway were some English commandos who had blown up a power station in Norway; is not that so?

A That is possible, but I do not know. I never say thi:

Q I think I will be able to remind you later about it.

The next document I will not read. It is from somebody cal ed "Dr. Huelle", whom I do not know, and I do not think it adds anything to it.

H0150-0062

Then the next document -- third in Your Lordship's document book -- is dated the 9th of October, and is signed "Warlimont". It is dated the 9th of October, witness?

A Yes.

Q Signed by Warlimont?

A Signed by Warlimont.

Q It sets out the first facts in the first two paragraphs that we know, and then says:

"The Fuehrer wishes that an order be issued laying down the corresponding behaviour of the Wehrmacht.

"At the instance of the Operational Staff of the Wehrmacht, the Wehrmacht Legal Department has drawn up the draft to be found in the enclosure.

"You are requested to cooperate in a thorough examination,-- if necessary, calling in the Reichsfuehrer SS.

"We refer to the discussion between the Chief of the Foreign Department, Counter-Intelligence and the Deputy Chief of the Operational Staff of the Wehrmacht."

In the next document is the draft order prepared by the legal department:

"Members of terror and sabotage detachments of the British Armed Forces who demonstrably break the rules of an honourable way of fighting will be treated as bandits:

"They are to be exterminated mercilessly in battle or in flight. Should military considerations demand that they should be temporarily arrested or if they fall into German hands outside the military operations, they are to be brought before an officer immediately for interrogation and are then to be handed over to the SD.

"Keeping them in custody in a Prisoner of War camp is forbidden.

"This order may be distributed only down to armies. From there forwards it must be made known only verbally. This order is to be destroyed after it has been taken cognizance

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of".

Do you remember having a conversation on the telephone with the head of the legal department about this order?

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A No, I don't remember that.

Q Well, will you look at the next document; it is dated the 14th of October. It is a memorandum. Now you notice the heading, the original heading was "Revenge actions - prisoners of war," Somebody struck that out and put instead: "Combatting of enemy sabotage detachments." "Memorandum. (telephone discussion with the head of the Wehrmacht Legal Department). The head of the Wehrmacht Legal Department has in the meanwhile spoken with the chief of the Operational Staff of the Armed Forces by telephone." That is you, isn't it?

A Yes, that is me.

Q "The latter said that the Fuehrer's aim in this action was to prevent this manner of waging war (dropping small detachments who do great damage by demolitions etc. and then surrender). That was the object of the order, wasn't it?

A Yes, about using methods contrary to International Law.

Q Well, that is a matter perhaps neither for you nor I to discuss. But if I might be allowed to ask you this question, do you draw any distinction between a British airman who bombs a power installation from the air and a British parachutist in uniform who is landed and blows it up with an explosive? Do you draw any distinction in International Law?

A No. The fact of destruction of an object by an explosive I consider completely permissible under International Law, but I do not consider it permissible for youths wearing civilian clothes under their uniform and having a pistol in a holster which starts firing as soon as one raises one's arms to surrender.

Q Well, there are two things there, you see, and one answer, and I am not going to argue at all with you; but when you consider the case you will find many, many cases where these persons were executed and there is no suggestion that they had anything but a uniform at all.

A I believe that these cases were quite rare, that at least these people were mixed with those who had on civilian clothes.

Q Well, I am not going to argue with you because they are in documents and they will have to be, perhaps, summarized sometime. But would you agree

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that a parachutist in uniform, with no civilian clothes, acting like that, if he is killed, shot by the SD, would you agree that that would be murder? Or would you rather not answer that?

A I have already said that if a soldier only blows up an object in full uniform, I do not consider that an action contrary to International Law; and for this reason I opposed the Commando order in this form.

Q Very well.

A Until the end.

Q I hear your answer and I won't pursue that matter. Then the document goes on -- I don't want to read it all: "The head of the Wehrmacht Legal Department spoke to the effect that, under these circumstances, one should consider issuing an order suitable for publication. Article 23c of the Hague Regulations for Land Warfare, which forbids the killing or wounding of an enemy who lays down his arms or is unarmed if he surrenders unconditionally, had to be explained; when the Regulations for Land Warfare were concluded, this manner of waging war was not yet known and the regulation could therefore not apply to this." Well now, that was the first bundle. Now I want to put you --

A I should like to make a brief comment on this document. I have not seen any of these papers previously. I am now seeing them for the first time; but they prove, word for word, what I said day before yesterday under oath, that my staff had heard of the order and carried on preparatory work with the Legal Department and with the Foreign Department to draft such an order, but I did not accept any order and did not submit any to the Fuehrer.

Q Well now, I want to put to you another document, 1265 PS.

MR. ROBERTS: My Lord, I offer it as GB 487.

Q. Now the first document in the bundle is a teletype dated 13th of October and it is signed by Canaris. Is that right, Witness?

A. It is a teletype message from Canaris, yes.

Q. It is a teletype to the OPS. Staff. The subject is "Treatment of Prisoners of War". "Regarding the notice dated 7.10.42, issued by the OKW - The following attitude in abbreviated form is taken regarding the discussions and measures which have been commenced". No.1 doesn't matter; it is about Chaining. No.2 is the important one: "Treatment of Sabotage Units. Sabotage units in uniform are soldiers and have the right to be treated as prisoners of war. Sabotage units in civilian clothes or German uniform have no claim to treatment as prisoners of war (francs tireurs)".
You agree of course, with the correctness of that, do you not? The rest of that document doesn't matter. You agree, do you now, with that opinion in Paragraph 2, as a man who knows International Law?

A. Paragraph 2, I admit it, yes. That is entirely my opinion. It agrees completely with my point of view.

Q. And now the next document.

MR. ROBERTS: If the Tribunal would kidly go to the last documents of the three, which is headed "Telephone Call. Reference: Letter Ausl/Abw, letter of 13.10.42. My Lord, that is the one I have just read.

Q. "Opinion of the Wehrmacht Legal Department". Paragraph 2, that is referring to Canaris' opinion, "Fundamentally in agreement. It may, however, be possible to support the following train of thought with regard to special cases: Fighting potentialities, such as exist now and such as it is intended to prevent, came about long after the creation of the Hague Convention for Land Warfare, in particular as a result of the war in the air. In this connection special attention is drawn to the mass use of parachutists for purposes of sabotage. Anyone who commits acts of sabotage as a soldier with the intention

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of surrendering after the act of sabotage without fighting, does not act like an honest fighter. He misuses the right of Article 23c of the Hague Convention for Land Warfare, during the formulation of which no such methods of warfare were contemplated. The misuse lies in the speculation on surrender without fighting, after successful completion of the act of sabotage. This view regarding the inadmissibility of sabotage commandos can be backed up without reservation, provided we also apply it to ourselves". That document has your intial on the top, Witness? Is that right?

A. I have read this document. It contains the opinion of the Wehrmacht Legal Department on International Law, which on this point agrees with the Fuehrer's opinion. It controls the possibility, under International Law, that a misuse of International Law could be committed by intending from the beginning to surrender after an action and thus prearrange for immunity for oneself. I don't quite share this opinion, but it was the opinion of the highest Legal Department at this time.

Q. Many, many brave soldiers, when they are outnumbered, surrender, do they not? Many Germans surrendered at Bizerte and Tunis, thousands of them. How did that put them outside the pale of International Law or the protection of it?

A. But they were soldiers who were captured in the normal course of war, and the Fuehrer always recognized that at all times. This is a doubtful case but it has nothing to do with me. I only acknowledge that document.

MR. ROBERTS: My Lord, the intermediate document is a letter signed by Lehmann, who was head of the Legal Department It merely confirms the telephone conversation which I have read and I don't think it is necessary to read it again. It is before the Defendant.

Q. Well now, the last of these documents before the order was finally drawn up and issued. The Court has already seen it because it was put in. It is 1263 PS, RF 365. My Lord, it was in the Jodl Document Book, No.2, Page 104.

There is an unfortunate omission from page 110 in Dr. Exner's book, which I am perfectly certain is quite inadvertant. Will you look at the document dated 15 October 1942?

My Lord, I think that is the first in your bundle. It is page 110. It is first in the single documents. It is page 110 of Dr. Exner's book, and I apologize to him because I have just seen the marginal writing. It was covered over before, and I had not seen it. I apologize.

BY MR. ROBERTS:

Q. It is a note, is it not, witness, signed Warlimont, your deputy, 15 October. I think you will find it the second document in your file. I do not want to read it all again, because it has been read, but you see, "The Proposal of the Foreign Office Abw. will be submitted as Appendix 1".

The Tribunal will find appendix 1, in which he says, in which it is suggested under letter "A" that sabotage troops who do not wear uniforms should be court-martialed, and you have said "No". You have given your reasons. And "B": Members of sabotage units who are in uniform but are guilty of dishonorable activity are to be put into military confinement. Do you say that that doesn't go either?

And then, if you will go back to 15 October, just the second paragraph down:

"The Chief of WR--" That is the legal department -- "has made a statement to the effect that the order was to be drawn up in such a way that it will take into account our own interests." Is it "our own interests", witness? "Take into account our own interests"?

A. Yes, that is our own interest.

Q. "...our own interests while considering the future conduct of the war. In this way he wanted to avoind repercussions which would counteract our further intentions. Sabotage is an essential part of conducting war at a time of total warfare; we ourselves have strongly developed this method of fighting".

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And you write again, don't you, "But the English are much more in need of it".

A. Yes, it is an undeniable fact in the war at that time that the English used it much more than we did.

Q. Is that a reason for making an order of this kind to try and discourage the English from using sabotage detachments?

A. No, that is certainly no reason. It is only a contradiction of the statement that we developed this method of fighting. That occasioned me to write, "Yes, but the English to a much greater extent that we", but that has nothing to do with the reason for the order.

Q. Then I am not going to take more time on that particular document, except -- Have you not a document dated 14 October with 1, 2, 3, 4 at the end? I think it is on a separate page, the 1, 2, 3, 4.

A. Yes.

Q. It says:

"With this view in mind to prevent the enemy's fighting the war by using sabotage troops, following questions have to be clarified before formulating an order:

"1) Do we ourselves have the intention to commit sabotage units in the zone of rear echelons of the enemy only, or also far back in the zone of the interior?

"2) Who will commit more sabotage troops, the enemy or we?

"3) Can we establish the principle: Sabotage units do not conduct legal war; they are to be exterminated in the fighting without mercy?

"4) Do we attach importance to arrest first the single members of this group for interrogation by counter intelligence and not kill them immediately?

Those were the considerations which were discussed in your office before the orders were drawn up.

A. Those were questions -- not a point of view -- but questions which on the basis of the communique were raised in the Wehrmachts Fuehrungs Stab. The basis for all these documents

H0150-0069

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proves the correctness of everything I said here two days ago. The staff and the legal department and the foreign department worried about how they could draw up the execution order to the supplement of the communique of the Fuehrer. Nothing was done. That is what I testified day before yesterday. That is what you yourself have proved through submitting those documents.

Q. You have said, I think, part of the Fuehrer's order disgusted you?

A. Yes.

Q. And you have said in your interrogation that circulating this order was one of the things which went against your inner conscience -- one of the few things. "Your inner convictions"-- to use your actual words.

A. In the previous interrogation I said that it was one of the few--or the only--order that I received from the Fuehrer which I in my own mind completely rejected.

Q. You rejected it, but those young men went on being shot, did they not?

A. I described that here exactly, but in practice the commanders in chief at the front supported by me, interpreted this order as mildly as possible and, in fact, only a very few cases occurred. I believe that most--almost all that I learned of at any rate--were strongly justified because the fighting methods of these people were not the methods of honest soldiers.

Q. You see, you talk about your inner conviction. I think Keitel spoke about his inner conscience. But should we have heard anything about those convictions and this conscience if Germany had not lost the war?

A. No, but then we might have heard of the atrocities at Dieppe in a similar trial.

Q. Now, I just want to deal with a few examples very quickly of the order being carried out, as you said it was only carried out a few times.

H0150-0071

I just, first of all, want to refer to UK 57, which is on page 309 of the document book 7, German copy page 333-- German copy 344. I can read this out. It is a report which is initialed by Keitel.

"On 16 September 1942--" Mark the date. It is more than a month before the commando order came into being. "--ten Englishmen and ten Norwegians landed on the Norwegian coast. Dressed in the uniform of the British Mountain Rifle Regiment. Heavily armed and equipped with explosives of every description. After negotiating difficult mountain country, they blew up important installations in the power station at Dromfjord on 21 September. The German sentry was shot. Norwegian workmen were threatened that they would be chloroformed. For this purpose the Englishmen were equipped with Morphous Syringes. Several of the participants have been arrested. The others escaped into Sweden."

Then follow several names, and I read them out to this Court, I think, in January. They were shot on 3- October 1942. That would be, shot as a result of the order which you circulated, although it was not in existence when those men blew up that power station. You told me some time ago, that that power station was a proper military target. Those men were in uniform. Can you begin to justify that?

A. No, I can not justify that, and I do not want to justify that. I consider it completely illegal. Even this order could never be retroactive, but I did not learn of it at that time. Of UK 57 I read the first part, and the second part I read only here. The third part I read in April 1944.

Q. Well, now, there are other exhibits dealing with this matter which I am not going to put to you. They have been referred to before, and I do not want to be cumulative. I would like-- Perhaps I will ask you one question first.

I think it was laid down, was it not, that every action taken under this Fuehrer order was to be reported in the Wehrmacht report?

H0150 - 0072

A. That was ordered, yes.

Q. I just want to give you an example of the Wehrmacht report.

MR. ROBERTS: 526-PS, US 5-2. My Lord, it is 7A, page 15. It is dated 10 May 1943, German page 21 of the small book.

BY MR. ROBERTS:

Q. It is a notice from the "Q" branch of your staff.

"On 30 March 1943 in Toftefjord an enemy cutter was sighted. Cutter was blown up by enemy. Crew: Two dead men, 10 prisoners.

"Cutter was sent from Scalloway by the Norwegian Navy.

"2 Colt machine guns, 2 mounted machine guns, a small transmitter. 1,000 kg of explosives.

"Purpose: In connection with the organization for sabotaging strong-points, battery positions, staff and troop billets and bridges.

"Fuehrer ordered executed by the S.D.

"Wehrmacht report of 6 April announces the following:

"'In Northern Norway an enemy sabotage unit was engaged and destroyed on approaching the coast".

That was false, was it not?

A. I confirm this communique of 6 April which was set up, as on 6 April I received the contribution to the communique from the commander in Norway. This brief formulation came from the Commander at the front, but what actually happened is set down in this notice of 10 May, but, unfortunately, I never saw it. On 10 May 1943, I was going by train to Bad Gastein to cure a severe illness, and that is how it happened that I did not see the document until here in Nurnberg. I am sorry. It would have been one of the few cases when I might have been able to interfere.

Q. Witness, keep it in front of you, because, you see, the action was not taken on 10 May; it was taken before, or on 6 April. Look at the last paragraph:

"Wehrmacht Report of 6 April announces the following:

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"Enemy sabotage unit was engaged and destroyed on approaching the coast."

Whereas, in fact, they had been taken prisoner and then shot like dogs by the S.D.

H0150 -0074

A Yes, I have just said that. Before the 6th of April, I heard nothing about the whole matter. Only on the 10th of May did it come to our knowledge, for the Wehrmachts Fuehrungs Stab set up this notice. The whole investigation was made by Counter-Intelligence, Canaris' office, together with the Security Police. That says the "SD"; that is wrong; it was the Security Police.

Unfortunately, I did not learn these details; the Counter-Intelligence learned them. I was concerned with the whole question only because I had to edit the communique. Otherwise, the whole commando order would not have come about.

Q I just want to show you one more instance. It is 2610-PS.

MR. ROBERTS: It is, my Lord, in small document book 7-A, page 23, the German small book page 41.

BY MR. ROBERTS:

Q Now, I want you to notice, Witness, this is the only document which I rely on which isn't one of your own captured contemporaneous German documents. This is a report from the Judge Advocate General's Department, United States Army. It concerns 15 United States personnel who were shot under this order. If you look at the second page:

"On the night of 22 March 1944, two officers and thirteen enlisted men of the 2677th Special Reconnaissance Battalion of the Army of the United States disembarked from some United States Navy boats and landed on the Italian coast near Stazione di Framura. All fifteen men were members of the Army of the United States and were in the military service of the United States. When they landed on the Italian coast they were all properly dressed in the field uniform of the United States Army and they carried no civilian clothes. Their mission was to demolish a railroad tunnel on the main line between La Spezia and Genoa. That rail line was being used by the German Forces to supply their fighting forces on the Cassino and Anzio Beachhead fronts."

That was a good military target, that tunnel, wasn't it?

A Yes, absolutely a military target.

Q And all 15 men were shot because of the order that you circulated.

H0150-0075

A I did not understand. The order which --

Q -- which you circulated on the 19th of October. You circulated a supplementary order to the Fuehrer Order, the last paragraph of which, I think, disgusted you. That is 503-PS.

A It is not correct to say, "Which you had to circulate".

Q I'll take that question up in a moment. I don't agree. I mustn't argue with you, but I must put some questions.

General Dostler, who ordered that shooting of those men, you see, was himself also shot by sentence of this court martial.

I am going to turn now from the commando order and --

A (Interposing): May I say something else about this document?

Q Yes, anything you like.

A This incident never came to my knowledge; at least, I have no recollection of it. To my knowledge it never appeared in the communique because General Dostler did not report the whole incident to his commanding officer Kesselring, who in this case might have been able to take another way.

Q. Why do you say that you had to circulate this order? No man can compel another to circulate an order unless he does it.

A. I made long statements to the effect that this order could not just be interpreted as an order to murder, but that there could be very serious and justified doubts as regards international law concerning the right or wrong of this order. In any case, you would have to be able to have the best understanding for such a situation, because even now, in my situation, I cannot say or do what I like, and this is exactly what happened to me during those last five and a half years.

Q. You could have refused. You could have said, and the other generals could have said, could you not, "We are all honorable soldiers. We will not publish and establish those orders".

A. Certainly under other circumstances it might have been possible, if, firstly, I had not had this conflict with the Fuehrer, and secondly, if the British Ministry of War had made my task a little easier. However, these events and the explanation on the 2d of September put the Fuehrer into a rage against which I could do nothing. The document itself is the best proof of how much I tried to refuse, because the threat of punishment and the thorough justification required were directed against myself.

THE PRESIDENT: Mr. Roberts, do you think that would be a convenient time to break off?

(A recess was taken).

BY MR. ROBERTS:

Q. I want to ask you a few questions about the deportation of the Jews from Denmark. Will you look, please, at a new exhibit, D-547, which I offer as GB-488.

That is to the OKW Operational Staff from the Commander, Denmark, dated the 20th of September 1943. That is before the teletype which has been put in, two days before:

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"The Fuehrer has agreed in principle with Dr. Best's telegram that the Jewish question in Denmark be solved very soon by deportation.

"The execution of this measure should take place while the state of martial law still exists. It is not certain yet if sufficient police forces can be provided for the arrest of the Jews and their families, about 6,000 persons, of whom most live in Copenhagen. The army would be heavily burdened.

"I believe that the results of the deportation will be serious.

"The armament industry deliveriesswill be prejudiced Considerable disturbances will have to be reckoned with".

You made a note on the back of it, "I know nothing of this. If a political measure is to be carried out by the Commander, Denmark, the OKW must be notified by the Foreign Office".

Is that right?

A. Yes. I would not have read this document, but this note did originate from me, and that proves that I did not know up until this time that obviously some few days prior this question had been discussed in Denmark, and that the Commander of Denmark was objecting to it. Consequently I wrote, "I know nothing of this. This is a political measure, and if a political measure, is to be carried out in Denmark, then please have the Foreign Office notify us".

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Q Then to go on, I omitted one or two important documents. Will you go to document dated 1 October 1943, the fifth or sixth document of your Lordship's file, No. D/547, dated the 1 October 1943. It is to the O.K.W., from Denmark, and quote as follows : " The Reich plenipotentiary in Denmark has given the following report to the Reich minister for Foreign affairs : 1. The arrest of the Jews to be evacuated will take place in the night of 1st/2nd of October, transportation from Seeland will be carried out by ship 2. Should I receive no contrary instuctions, I do not intend allowing the Jewish action to be mentioned, either on the radio or in the press, " and then, " I intend leaving the possessions of the evacuated Jews undisturbed in order that the seizure of these possessions can not be imputet to be the reason or one of the reasons for the action." Then is told the disadvantageous effectss. There is a question with this Reichsfuehrer SS note, and answer, the Reichsfuehrer's note is in angreement, and then thereis a note in Jodl's handwriting, " The Fuehrer agrees." Is that in your writing ?

A Yes, that is my handwriting, but that refers only to the publishing of the liberation of the Danish soldiers which were to be liberated. Then it is also important to note in this document that the commander in chief of Denmark said that he did not intend to have the property of the evacuated Jews disturbed. He said, " I intend leaving the possession of the evacuated Jews undisturbed. At this time he ha d the executive power.

Q Have you got the next document in the same group dated 2 October 1943, OKW / Wehrmacht Operational Staff, and from Denmark. I quote : " Jewish action carried out in the night of the 1st/2nd October by the German police without incidents," and then in the last document, dadet 3 October, 1943, to the OKW / Wehrmacht Ops. Staff, and quoting : " According the statement of the Reich plenipotentiary the Reichsfuehrer SS has sordered that the Reichsfuehrer SS alone as the person ordering the Jewish Action is to receive the exact figures of arrest. "

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The plenipotentiary has, therefore, given no figures to the Commander of the German troops in Denmark. 232 Jews have been handed in by the police troops via the gathering points set up by the Watch Battalion, Copenhagen."

What was the " Watch Battalion " ?

A That I can not tell you, how it was set up at this moment. It might have been an arrangement by the police; it might have been part of the Army, but I can not tell you that with certainty if it is a unit which advises or supervised, but as a matter of being interested I could agree it is a complete incident to us, and my interest in this matter gives the right to prove the basis of my opinion. ---

Q Yes.

A --- in this interest which I show.

Q First of all have you said that the " Watch Battalion " is quite different from , or part of the Wehrmacht ?

A That is not for certain. I do not wish to dispute it absolutely, from the wording " Watch Battalion " Whether the Army had it; it might have been in a supervisory capacity, or might have been a watch unit of the Police, I could not say with any surety, but then General von Hannecken should be able to tell you about it.

Q This " decent soldier " portion you covered yesterday, were they called upon to get these Jews which managed to get through the SS net ?

A No, it said it was carried through by the police, but I do not believe that there was one unit of the Wehrmacht which concerned itself with the deportation of Jews. I do not believe that. I do not believe that it

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took place. I do not believe it.

Q Then in your mind it is a matter of complete indifference, as to us, too. It was a matter of complete indifference to you how many Jews were deported, you did not care?

A I do wish to say this, and that it does prove, that it was a political matter, and with political matters I was not concerned, but my position and attitude was towards the Jewish question, and I believe that point I did prove.

Q Where did the Jews go to, Auschwitz?

A No, according to your prosecution and what the prosecution read, that those Jews we are concerned with were taken to Theresienstadt at some particular given time, and that they were treated well, that they received clothing, and food. That I can say with my experience and from the document presented by the British.

Q You believe that?

A Yes, I believe that, and the Danish Government in its confirming this fel felt it in this court. I believed it when I herad this confirmed through the prosecurion. Thus I heard it confirmed.

Q Now I want to go into one other topic, a topic on Force Labor, and which you show in your speech. Will you look at your notes of your speech, page 298 of document Book 7. It is the big one. That part which begins on page 38 in the witness' copy, where I think is a piece of paper, that is 38. I wonder if you can find it for him. I quote:

"This dilemna of manpower shortage has led to the idea of making more thorough use of the manpower reserves in the territories occupied by us. Here right thinking and wrong thinking are mixed up together. I believe that "in so far as concerns labor, everything has been done that could be done. But where this has not yet been achieved, it appeared to be more favorable politically not to have recouse to measures of compulsion, exchanging for these order and economic aid. In my opinion, however, the time has now come to take steps with remorseless vigor and resolution in Denmark, Holland France and Belgien also to compel thousands of ideless to carry out the fortification work

which is more important than any other work. The necessary orders for this have already been given." Do you remember that?

A That I tried to take care of, there is no doubt about it.

Q Yes?

A But it is no proof of the fact that I said that.

Q But had the necessary orders been given for the civilians in the occupied territories to become victims of German deportation?

A In most countries labor compulsion laws did exist. However I do not know but I would like to state under my oath that in Denmark and Holland, and in Belgium, as well as local firms, who recruited their own workers they participated in the fortification work; that the population of these areas were glad in having to do this work for the strengthening of the coast fortifications, with more certain by that invasion would not take place in their own country. For that reason they were strongly interested to prevent an invasion, to try everything, and that is the way it came about. Though it sounds incredible, the local inhabitants participated in the work of fortifying these coasts, that is a fact, and the population was glad to do this.

Q I don't believe you, but had the necessary orders been given. In the last sentence it tells these people they are compelled to work even though they don't want to work on the fortifications. It refers to, not people who wanted to, but the people were compelled to work.

A Sofar as the details are concerned, I do not know of the event, but I did not concern myself with this problem. but I did know that labor conscription laws had been instituted in the occupied countries.

Q All right, I am not trying to stop you, if you have said all you wanted to say. Will you look at a new document, No. 1383 PS, which we offer as GB-489. This is a report of a discussion of the Current Military Situation, dated 12 December 1942, pages 65 and 66. I quote: with Jodl speaking:

"Jodl: The Military Commander of France reports: The number of French workers deported into the Reich since 1 June has now passed 220,000. There are in round figures 110,000 specialists in Berlin."

How many of those 220,000 were volunteers, did you find out?

H0150 - 0081

H0150 - 0082

A That I cannot tell. I only read -- in a report which was appended to the situation report coming from France -- that there had been an exchange between workers. That was already testified to by Sauckel.

Q I will leave that, and ask only two questions now on Sagan, Stalag Luft 3.

You said yesterday that after the incident of the Sagan shooting, you thought Hitler was no longer "humane" did you say?

A I said yesterday that at that moment I had the impression that he was deviating from all humane concepts.

Q Had you thought he was humane up to March of 1944?

A Before this act I did not know very much about him personally. So far as things that could not be justified under international law were concerned or which were doubtful according to international law -- everything which he had decreed before that time, so far as I know, could still be justified in some way; they were reprisals. However, this act was not a matter of reprisals.

Q Would you agree with me -- the word isn't too strong -- that this was sheer murder of these 50 airmen?

A I completely agree with you; I consider that as murder.

Q How could you honorable generals go on serving a murderer with unabated loyalty?

A I did not serve with unabated loyalty from this period on, but I did everything within my power to avoid further injustice.

Q Now I come to something else, the question of the destruction in Norway. The document is 754-PS. It has not yet been exhibited, and I offer it as GB-490. This document is signed by you, is it not?

A I have known this document for a long time, and it is signed by me.

Q I will just read parts of it to the Tribunal. It is dated the 28th of October, 1944. It is from your staff, and the direction is to the Army Supreme Command; Commander in Chief, Norway; the Reich Commissioner, Norway; and the Navy.

"Because of the unwillingness of the North Norwegian population to voluntarily evacuate, the Fuehrer has agreed to the proposals of the Commissioner

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and has ordered that the entire Norwegian population east of the Fjord of Lyngen be evacuated by force in the interest of their own security, and that all homes are to be burnt to the ground.

"The Supreme Commander, Northern Finland, is responsible that the Fuehrer' order is carried out without consideration. Only by this method can it be prevented that the Russians with strong forces, aided by these homes and the people familiar with the terrain, follow our withdrawal operations during the winter and shortly appear in front of our position in Lyngen. This is not the place for sympathy for the civilian population."

Lyngen is in the very North of Norway, is it not, on the West Coast?

A No, on the Northern Coast. It is situated where Finland is closest to the Polar Region. It is a very small piece of land.

Q That order was carried out according to the Norwegian report, UK-79, which the Tribunal will find as the last document in the small book, 7-A. It is at page 26 of the Norwegian report, at the bottom of the page.

"As a result of the advance of the Russian troops and the retreat of the German Army in Finnmark, October-November 1944, the Germans practiced the 'scorched earth' policy for the first time in Norway. Orders were issued that the civilian population was to evacuate and that all houses, transport and stores were to be destroyed. As a result of this, about 30,000 houses were damaged, apart from 12,000 items of damage to chattels amounting to 176 million kroner."

For photographs, will the Tribunal turn to pages 62 and 63. At page 62 is a copy of the German order, and 63 is a photograph of the ruins of a fishing village.

That was a cruel order, was it not, witness?

A No, not quite. I should like to make a few explanatory remarks here. This order is typical, as I have already stated, of what was not wanted by the soldiers, but what was contrary to the will of the soldiers. This decree was forced through by the Fuehrer against the wishes of the soldiers.

Point 2, this decree was not carried out, because otherwise there would be no city of Kirkenness, no city of Hammerfest, no city of Alter, as well as

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other cities. All of these cities are to the East of the Lyngen Fjord.

As to this order, as far as the practice of the troops was concerned and in agreement with me, and in conversations which I had with my brother, who was the commanding general in that region -- and whom I wanted to call as a witness since I expected the submission and production of this document -- this decree was watered down in such a way that only the military necessities were carried o and everything was according to Article 23 of the Hague Land Warfare Regulation. Otherwise there would not be any city or house left in Northern Norway. If you were to travel to that part of the country, you would see that that is not the case. On the contrary, these cities are there in good order, undisturbed.

The Wehrmacht Commander in Chief of Norway was against this attitude of Terboven. I made these statements to the Fuehrer in the strongest language, bu even so he demanded these words in the form of a decree.

Again, in our humanitarian feeling, we carried them through only when they were necessary for military reasons. Those are the facts.

Q I think you said, when you were interrogated, that your brother complained of this order, did he not?

A That as well; he was enraged about this decree.

Q I am now going to turn to two documents with regard to the treatment of the Norwegian civilian population.

This is in your document book 1, pages 99 and 100 -- well, it begins at page 98. These are regulations on the conduct during the occupation of Denmark and Norway. They are instructions to the troops to treat the inhabitants politely and well and to behave themselves with due decorum. That is right, is it not?

A Yes indeed.

Q And they must be told that they are entering Norway for the protection of the country and the safety of its inhabitants. That appears on page 99.

That is rather a euphemistic description of a sudden invasion with no declaration of war, is it not?

A Yes, but everything took place in an orderly manner.

Q From your point of view?

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A No, from the point of view of the Norwegians as well. That was the most extraordinary thing about it.

Q Well, you know, we can see, in the Norwegian Government's report, photograph and photograph of these towns and villages bombed to ruins. Is that your idea of an orderly occupation?

A That there was a bombardment on the day of the landing is more or less insignificant and not to be mentioned. These were just a few coastal batteries and a few fortifications, but not cities. Villages were only destroyed in the fight with the English brigade at the Mass and at the Delihammer; then villages were destroyed. However, during the occupation nothing was destroyed. There the Norwegians were very much interested; they had their hands in their pockets and they looked on with interest.

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Q And naturally, witness, if you could have landed without opposition and occupied the country with opposition, so much the better for you? That is obvious, is it not?

A Yes, indubitably; and it would have been better if Terboven had not come. I believe even after the occupation, things would have been very good for them.

Q Now, I want you to look at a part of that document which, quite properly, of course, was not read. It is Appendix 5.

MR. ROBERTS: It is a part, My Lord, I assume, of AJ 14, the number which this document was given when it was put in, in the examination in chief. I am handing the Tribunal copies of Appendix 5, because it does not appear in the Jodl Doement Book.

BY MR. ROBERTS:

Q Appendix 5 we candescribe as the sting in the tail of this document: "Guiding Principles for the attitude of troops in the occupied areas". I will not read the first few paragraphs.

"Only in the event of the civil population putting up a resistance or behaving rebelliously can the following decisions be carried out: -

"1). If the civilian population offers resistance or if attacks by the population on our troops or their lines of communications must be feared, the arrest of hostages should, on principle, be resorted to. Hostages should only be arrested on orders of a brigade commander, independent battalion commander or commander of equivalent rank . . .

"When accommodatingand feeding hostages it should be borne in mind that they are not imprisoned because of crimes.

"Hostages and population are to be informed that the hostages will be shot at any sign of any hostile action. Previous sanction of the shooting by the Divisional Commander, must, however, be obtained . . .

"Armed resistance by the civilian population is to be crushed by forae of arms."

The last sentence on that page is: "The death penalty will be imposed for violence of any kind against the German Armed Forces or their members in the occupied territory.

"Major trials will take place by Field Court Martial (Summary Court or

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ordinary Court Martial). The Regimental Commander can appoint the Summary Court which will be composed of 1 Captain, 1 Sergeant, 1 Corporal, hear witnesses and draw up the sentence in writing. The verdict will be the death penalty if guilty, otherwise acquittal. The sentence will be executed immediately after confirmation by the Regimental Commander.

"The following are to be considered as acts of violence: sabotage, destruction of our lines of communication, the cutting of telephone wires, demolitions, etc."

A little drastic, that, wasn't it? Only the death penalty?

A Those measures, or directives, are in complete accord with our regulations, which in times of peace were laid down by the experts on international law and laid down in cooperation with the Foreign Office. It would be well if everywhere actions were carried out, courts martial would be employed in the same measures with which we entered into war and which we carried out into the war.

Hostages, and the measures applying thereto, were set down in regulations, and there is no doubt that according to the international law which applied in the year 1939, the taking of hostages was very much admissible.

Q I submit to you, as you raise that point, that nowhere in international law will you find the shooting of hostages legalized at all.

A Then it is not prohibited with certainty in international law. I believe it is an open question. In our regulations, and under the regulations about troops, the concept of hostages and the taking of hostages was laid down, and had been laid down for years.

Q That may be so. But I do not want to argue with you about it. I suggest to you that the Hague regulations protect the lives of civilians in occupied countries, unless they commit crimes, of course, and also prohibit collective punishment of the innocent.

If you do not want to say any more on that, you are not obliged to. I do not want to stop you if you do.

A I can only summarize and say every word here coincides with the laws that applied in the German law, and those regulations were not illegal. But one would have to argue with experts on international law about this problem.

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Q Very good. Now, will you look at one other document dealing with Norway? It is D 582.

MR. ROBERTS: My Lord, it is a new document, and I offer it as GB 491.

BY MR. ROBERTS:

Q That is a document which comes from your office?

A Yes. It originated from the Wehrmacht Operational and Quartermaster section.

Q Do you know of it or not?

A I cannot recall exactly, but there is some note made by me. Therefore, it is a document which I had seen.

Q Oh, yes. Where are the notes, witness?

A They are to be found on the back page of the very last teleprint message.

Q I see what you mean, yes. I had forgotten that you were getting more than one document. Will you take first of all the document dated the 2nd of February, 1945? I think it is the top one.

A There are no remarks of mine on that page, and I cannot say with certainty whether I have seen it or not.

Q Just tell me whether you say you did.

A I do not believe that I have seen this. I have no recollection of ever having read it.

Q I do not think it would be right to cross examine you on that document.

MR. ROBERTS: My Lord, in that, I would ask to withdraw it, and I will not put it in as an exhibit.

THE PRESIDENT: I think the defendant said that it was from his office.

MR. ROBERTS: Very well, then. He did that.

BY MR. ROBERTS:

Q You see what the document says, defendant. It is dated the 2nd of February, 1945.

A Yes, it is the 2nd of February.

Q It is the 2nd of February. It deals with the Reich Commissar Terboven's report to the Fuehrer. It says:

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"Those responsible for attempts to murder and carry out sabotages are the illegal entities within Norway with a bourgeois-national majority and a Communist minority, as well as individual groups which came direct from England or Sweden, return to Sweden after carrying out their tasks without having got into touch with the population, and from there are transported back to England by air.

"The bourgeois-national majority was opposed to the Communist minority in its conception of sabotage and murder, and in particular with regard to their extent and nature. This resistance has become progressively weaker during the course of the past year, among other things essentially owing to the lack of effective measures on our part.

"3. Official departments of the exile government, as for instance the Crown Prince Olaf, as so-called Commander in Chief of the Norwegian Armed Forces and various others, have called upon the population at home, in speeches and other orders, to carry out sabotage. As a result, there is a particularly good possibility here of stamping every supporter of the exile government as an intellectual instigator or accomplice.

"The aim of the coming measures must therefore be, to strengthen the power and will to turn once more against sabotage, by threatening the very influential class of leaders in the bourgeois camp; thereby to exacerbate more and more the antagonisms between the bourgeois and Communists, who form a unified front."

Then we have "Suggestions". Those are suggestions from your office, apparently.

"1. Particularly influential representatives of the explicitly anti-German and anti-Nazi class of industrialists to be shot without trial on the accusation that they are intellectual instigators or accomplices and stating that they were convicted within the framework of police investigations.

"2. Similar men to be sent from the same circle to Germany to work on fortifications behind the Eastern Front.

"3. In cases where the circumstances are particularly suitable, proceedings to be taken before the SS and Police court, with the execution of the Sentence of death and suitable publicity."

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There are other suggestions which I need not read.

Then the last paragraph but one:

"The Fuehrer has only agreed to these proposals in part. Especially in connection with efforts at protection against acts of sabotage, he has rejected the means consisting of taking hostages. Furthermore, he has rejected the shooting of influential Norwegian representatives without trial as a means of combatting sabotage", which is underlined in blue pencil.

Is that your blue pencil?

A No.

Q It is a remarkable document, that, witness, because that is one instance where your department is suggesting a course of what I submit is brutal action, which for once the Fuehrer rejects.

A I believe, Mr. Roberts, it is your mistake. No proposal is made here. The Wehrmacht Fuehrungs Stab said it is advising the military commanders in chief of Norway about that, which the Reich Commissar Terboven had reported to the Fuehrer. And to that effect first he told him about the position and then the proposals which are mentioned here were suggested to the Fuehrer; and the Wehrmacht Fuehrungs Stab, the Operational Staff, which obviously had a representative at this meeting -- I, however, was not present -- immediately advised the military commanders in chief as to what proposals Terboven was making.

And what happened? These proposals, of course, were too much even for the Fuehrer. But it is not one of our proposals.

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Q Very good, witness, I hear your answer, and the Court will consider it. It may be accepted. The document speaks for itself.

THE PRESIDENT: Will you read the subject description? Orientation about Reichs Commissar Terboven's report to the Fuehrer?

MR. ROBERTS: Yes.

Q That is the subject, isn't it, the beginning? Orientation about Reichs Commissar Terboven's Report?

A Yes.

Q That is your department, is it not?

A Orientation about the 20th Mountain Army; that is General Boehm--General Boehm was the Commander in Chief of the 20th Army Group,--is advised about the reports which Reichs Commissar Terboven made to the Fuehrer, so that he would know what his man, Terboven, was suggesting. It is no more than an orientation about the words which Terboven said to the Fuehrer, and I can not tell you who was present there. This entire thing does not originate with me. I had never even seen it.

Q Now, the second document, that is from Terboven to Bormann on the 28th of October, 1944. That is with regard to evacuation east of Lyngen. I do not think I need read that. Now the next document is a teleprint of the 6th of April, 1945, from SS Oberfuehrer Fehlis to the Operational Staff, and it says: "In accordance with the instruction of the Supreme Command of the Armed forces(operational staff of the Armed forces), dated 29-3-45, members of the Norwegian Resistance Movement who appear in organized units and who are easily recognizable as combatants owing to armlets or other insignia are to be treated as prisoners of war." And then the SS Oberfuehrer says: "I consider this instruction completely intolerable. Iexplained this clearly to Lt. Col. Hass and Major Benzo from the Operational Staff of the Armed Forces who stayed her. Up to the present, there have been isolated appearances of uniformed groups in Norway, but so far there has been no fighting. According to an order of the Military Organization which was found, inquiries were made from the Defence High Command in London as to whether armed resistance should be offered in case of Germany as Norwegian police action. So far there has been no partisan or other fighting in Norway. On one occasion, captured members of the Military Organization in uniform claimed the right to be

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treated as prisonersof war. If this demand were met at the present moment, the result would be that active fighting on the part of the Military Organization would be set going. Therefore, please obtain cancellation of the order of the Operational Staff of the Armed Forces." And you voted for the exemption being removed, did you not? "Norway has a government in its own country. Whoever fights against it in the country is a rebel. It is another question in the case of Norwegian troops who were taken to Englaned and from there are again brought into the struggle under England's orders." That is your notes?

A Yes, indeed.

Q And you stick to that, do you? I mean that is your opinion today?

A Yes. I am of the opinion, on the basis of International Law, that members of a resistance movement against their own Norwegian government are not to be considered as normal troops but as a rebellion instead. But if Norwegian troops were taken to England and returned to Norway, then they were soldiers. And that today is my opinion on the basis of International Law.

Q What do you call the Norwegian government, the puppet government which was set up by the Germans?

A In any event, it was a government by Quisling at that time; and in any event, we spoke according to International Law. We occupied the country, and, according to International Law we were justified in giving out laws and in forcing through their execution. That is applicable and admissible under International Law, and resistance all over the world is considered rebellion and the same applies to us in Germany here today.

Q Now, I want to deal quite shortly with three other matters and then I have finished. I want to deal first of all with what you have said with regard to Hitler's suggestion to revoke the Geneva Convention. You say you were instrumental in preventing him from renouncing that Convention?

A Yes.

Q Would you look at a document which has already been put in, C 158, which is GB 209. It is not in a document book. This was put in with regard to the case against Doenitz. It is headed Extracts from Minutes of the Hitler Conference on the 19th of February, 1945: "The C-in-C Navy was not present at the Hitler conference on 18-2-45. The Fuehrer is considering

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whether or not Germany should renounce the Geneva Convention. As not only the Russians but also the Western powers are violating International Law by their actions against the defenceless population and the residential districts of the towns, it appears expedient to adopt the same course in order to show the enemy that we are determined to fight with every means for our existence, and also through this measure to urge our people to resist to the utmost. The Fuehrer orders the C-in-C of the Navy to consider the pros and cons of their step and to state his opinion as soon as possible. Then, further down: "The C-in-C of the Navy informed the Chief of the Armed Forces Ops Staff, General Jodl, and the representative for the Minister for Foreign Affairs at the Fuehrer's H.Q. Ambassador Hewel, of his views with regard to Germany's possible renunciation of the Geneva convention. From a military standpoint there are no grounds for this step as far as the conduct of the war at sea is concerned. On the contrary, the disadvantages outweigh the advantages; even from a general standpoint it appears to the C-in-C of the Navy that this measure would bring no advantages. It would be better to carry out the measures considered necessary without warning, and at all costs to save face with the outer world. The Chief of Armed Forces Ops Staff and Ambassador Hewel are in full agreement." You were saying there, were you not, that you agreed with Raeder when he said, break the Geneva convention but don't tell the world that we are doing so.

A Grand Admiral Doenitz.

Q That is what you were saying, isn't it?

A No. The entire thing, as I have said, is a notice by Admiral Wagner regarding a conference from which one could gather only that Grand Admiral Doenitz rejected this and that he allegedly is supposed to have made this remark, the remark at the end which I can hardly explain today to my own satisfaction, for at that time we had been told by the Fuehrer as the reason only that it should be prevented that this tremendous number of soldiers in the West would desert for lack of good treatment. As I have said, I can not explain this remark, and in my written work which I submitted to the Fuehrer and which also shows the attitude of the Navy, that sentence was not contained. In this draft we counterbalanced advantages and disadvantages. The disadvantages were overwhelming. The whole thing is not to be carried

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through; and this actually took place, it was not carried out. I can not say anymore, and witnesses can confirm my statement.

MR. ROBERTS: Document D 606 has not yet been exhibited. I offer it as 492 GB.

Q Now that is signed by you, is it not? The subject is the breach of the Geneva convention. Is that signed by you?

A Yes; at the end you will find my signature.

Q Now it is dated the 21st of February, 1945, and it is written on your headed notepaper: "Telegraphic report submitted to the Fuehrer on the 23-2 through the Chief of the Ops Staff of the Wehrmacht. The following questions were to be examined --" I am not going to read it all. I f the witness would follow me, I will read anything he wants. But it is a discussion as to the various advantages and disadvantages of repudiating the various international agreements, and I think I am not doing the witness an injustice if I say from a utalitarian rather than a moral point of view.

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A It is completely correct.

Q Very good.

A For the thing that I was concerned with was to succeed with the Fuehrer, and for that this document was compiled.

Q Well, now, I want to read the last paragraph.

MR. ROBERTS: My Lord, it is the last page but one of Your Lordship's document, "C", Proposal of the OKW":

"At the present moment the disadvantages of repudiating the bonds which were kept to up to now will in any case outweigh the advantages by far.

"Just as it was wrong in 1914 that we ourselves solemnly declared war on allthe states which for a long time had wanted to wage war against us, and through this took the whole guilt of the war on our shoulders before the outside world, and just as it was wrong to admit that the necessary --" Note the word "necessary" -- "passage through Belgium in 1914 was our own fault, so it would be wrong now to repudiate openly the obligations of International Law which we accepted and thereby to stand again as the guilty party before the outside world.

"Adherence to the accepted obligations does not demand in any that we should have to impose on ourselves any limitations which will interfere with the conduct of the war. For instance, if the British sink a hospital ship, this must be used for propaganda purposes as has been done to date. That, of course, in no way prevents us sinking an English hospital ship at once as a reprisal and then expressing our regret that it was a mistake, in the same manner as the British do."

That isn't very honorable, is it?

A In reply to that, I can only say that was the method of thinking which, alone, brought about success with the Fuehrer, and this success was realized only in that way. If I had used moral or purely legal arguments, then he would have said "Please leave me alone with that empty talk", and he would havecarried through the renunciation of the Convention, but these things gave him food for thought, and that is the reason why he did not carry through the renunciation of the Treaty.

Therefore, you must grant me that after five and a half years, I knew

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how to achieve something good and to avoid something bad, and that I knewhow to use my method. I was after results, and I did achieve success with him.

Q But, you see, you were applauding the fact that you told the world the truth in 1914. In 1914 you said that you only regarded treaties as a scrap of paper. You are saying now, "What a pity we told the world the truth in 1914. We ought to have told them something untrue, and then we should have, possibly, a better world reputation."

A That was an argument which the Fuehrer used frequently. If you repeated his argument in that same form, he was inclined to accept it, and we had to prevent his decreeing the renunciation in a fit of rage, and that is the approach one had to follow. If one cannot do good openly, it is better to do it in a roundabout way than not to do it at all.

Q I am now coming to quite another point. Were you an admirer of the principles of the Nazi Party?

A No.

Q Were you of the opinion that there was a successful fusion between the Nazi Party and the Wehrmacht which brought about the rejuvenation, the resurrection of Germany, after 1933?

A It could have been. I hoped that for a long time, andin general the relationship in the course of the years,and especially during the war, improved. In the beginning it was poor, very poor.

Q I am reading now from your speech. L-172. It is page 290 of the document book 7, and it is page six of your lecture notes. Page 290 of the document book, 203 of the German:

"The fact that the National Socialist movement in its struggle for interna power, was preparatory to the outer liberation of the dictate of Versailles is n one I need enlarge upon in this circle. I should like, however, to mention how all thoughtful regular soldiers realize what an important part has been played by the Nazi movement in re-awakening the will to fight, in nurturing fighting strength, and in rearming the German people. Despite all the virtues inherent in it, a numerically small Reichswehr could never have been able to cope with this task, if only because of its restricted radius of action. Indeed, what the Fuehrer aimed at and has been so happily successful in bringing about was a fusion of these two forces."

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Did that represent your honest opinion or not?

A Yes. That is an historical truth, an indisputable truth. The Nazi Party did bring that about. That is certain.

Q Very good. Then, I now want to put to you the last document that I put in.

MR. ROBERTS: My Lord, it has not been exhibited. It is 1808-PS. I offer it as GB 493.

BY MR. ROBERTS:

Q You made a speech, did you not, after the attempt on Hitler's life to your staff? These are the notes of your speech on 24 July?

A I have never seen this document before. I am seeing it for the first time now. It is unknown to me. It has remained unknown to me that any notes were made about the speech at all.

Q Let's go by stages. Did you make a speech to your staff shortly after the attempt on Hitler's life on 24 July 1944?

A Yes, while my head was still bandaged.

Q Secondly, is that document which you have in front of you, is that a document which comes from your files? Look at the cover, if necessary.

A I assume so. Most likely these are notes by Major Schramm.

Q Let me begin at the beginning of those notes. Just see if you can remember what you said. Did you begin by saying "The 24th July was the blackest day which German history has seen as yet, and will probably remain so for all time?"

A Yes, that is quite probable.

Q Why was it such a day for Germany because somebody tried to assassinate a man whom you now admit was a murderer?

A Should I perhaps appreciate a situation wherein I with some comrades, opponents of the regime, was attacked in such a cowardly manner? That to me was the worst thing that ever happened to me in all my life. If a man with a pistol in his hand had shot the Fuehrer and then had given himself up, that would have been something entirely different. This method was, for me, the most repulsive thing that could have happened to any officer, and I said these things under the impression of these events, and I am still standing on that today.

H0150 - 0098

Q I do not want to argue with you, but do you think it is any more dastardly than shooting those 50 American soldiers who landed in the north of Italy to destroy a military target, shooting them like dogs?

A That was murder as well. There is no doubt about that, but it is not the task or the mission of a soldier to play the judge against his commander in chief. That is a mission reserved for history or for the Almighty on High.

Q Very good. I have only about three more questions to ask you.

MR. ROBERTS: My Lord, I am going to read from page two of that document, about ten lines from the top. It begins, "The Fuehrer --"

BY MR. ROBERTS:

Q If I read this slowly, see if you can recognize it.

"The Fuehrer ignored this and other things, and now the attempted assassins wished to eliminate him as a 'despot.'" Do you remember saying that or something like that? "The Fuehrer ignored this and other things, and now the attempted assassins wished to eliminate him as a 'despot'." Do you remember that? "Yes, they themselves experienced how the Fuehrer did not come to power by force, but borne up by the love of the German people." Do you remember saying that?

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A Yes, that is true. Through the love of the German people, he was borne up to power, and everything that I experienced is tremendous. We were almost smothered through this love of the people and of the soldiers for the Fuehrer.

Q I beg your pardon. Have you finished? I didn't mean to interrupt you.

A Yes, I have finished with that point.

Q Borne up by the love of the German people. You have forgotten the SS, the Gestapo, and the concentration camps for political opponents, haven't you?

A I have told you how unfortunately little I knew about these things, almost nothing. Of course, this has a different aspect now, knowing these facts now.

Q I take your answer, and I put my last document to you.

MR. ROBERTS: My Lord, this is a new document, 1776-PS, I offer it as GB-494.

BY MR. ROBERTS:

Q Just have a look; see if it is signed by you, will you.

A Yes.

Q Now, you have told this court that you were opposed to terror attacks. Just see what this document says. Note the date first, the 30th of June 1940. That is just after the temporary fall of France:

"Chief of the Wehrmacht; General Staff.

"The continuation of the war against England.

"If political means will be without results, England's will to resist will have to be broken by force:

"a) by making war against the English mother country,

"b) by extending the war to the periphery.

"Regarding point a, there are three possibilities:

"1) Siege

"2) Terror attacks against English centers of population.

"3) A landing of troops."

And now I read this as an example of historical prophesy:

"Germany's final victory also over England is only a question of time."

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Then I go down several paragraphs:

"Together with propaganda and temporary terror attacks -- said to be reprisal actions -- this increasing weakening of English food supply will paralyze the will of her people to resist and finally break and thus force its government to capitulate."

It is signed "Jodl".

"Terror attacks against English centers of population" -- would you like to say anything to justify that sentence?

A Yes, just a few words. This proposal -- and after all, it was just a proposal -- proves three things:

First of all, that on the 30th of June 1940 I did not have any intention and did not know about the intention and the possibility of entering into a war with Russia, as is seen by the statement that the final victory of Germany is only a question of time.

Secondly, I admit that I have voiced a thought that was carried through by the Anglo-American Air Force to a wonderful completion.

Thirdly, this thought came to me only after the attack on the civilian population was started by the English Air Force, even though constant warnings had gone out.

It is historically confirmed by many documents that the Fuehrer tried again and againm to the utmost, to avoid this war and this form of war against the population. But it was clear at that time that he would not be able to do so.

Q Now, I have finished, Witness. You will notice that all the documents I have put, except for that one American report, were German documents, originating at the time of these events about which I have been cross examining.

In the face of those documents, do you still say that you are an honorable soldier and a truthful man?

A I am not only asserting that before and after, but I am also stating that the submission of these documents is proof enough that this is actually so.

THE PRESIDENT: The Tribunal will adjourn.

(The Tribunal adjourned until 7 June 1946 at 1000 hours)